



2025:DHC:7038-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 11th AUGUST, 2025

IN THE MATTER OF:

+ **LPA 1084/2024, CM APPL. 63850/2024, CM APPL. 63853/2024**

THE MANAGEMENT OF PATEL INTEGRATED LOGISTICS
LIMITEDAppellant

Through: Dr. M. Y. Khan, Advocate

versus

SATBIR SINGH & ANR.Respondents

Through: Mr. Ram Kumar, Mrs. Jyotsana and
Mr. Satbir Singh, Advocates for
R-1.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

HON'BLE MR. JUSTICE SAURABH BANERJEE

JUDGMENT (ORAL)

SUBRAMONIUM PRASAD, J.

1. The challenge in the present appeal is to the Judgement dated 27.05.2024 passed by the learned Single Judge in W.P.(C) 11727/2005 whereby the Ld. Single Judge has dismissed the writ petition filed by the Appellant herein. The Appellant in the said writ petition had challenged the Award dated 27.05.2005, passed by the Ld. Industrial Tribunal-II, Delhi (*hereinafter referred to as "Ld. Tribunal"*) in I.D. No.229 of 2001.

2. Shorn of unnecessary details, facts leading to the filing of the present appeal are as under:



- a) The Respondent No.1 was appointed by the Appellant as an Operation Supervisor in the category of OBC/OTC/OPS as mentioned in his Appointment Letter dated 01.04.1993. The Appointment Letter indicates that Respondent No.1 was to be kept on probation for a period of six months and on successful completion of the period of probation, the services of Respondent No.1 was to be confirmed. The services of Respondent No.1 were confirmed on 01.10.1993.
- b) Material on record indicates that Respondent No.1 joined the Union in the year 1995 and became the Vice President of the Union. Respondent No.1 was promoted as an Operation Supervisor in the Grade C-1 on 03.05.1998 and on 02.02.2000, the Respondent No.1 was promoted as an Operation Supervisor in the grade of SR and was transferred from Delhi office to Lucknow branch office. The Transfer Letter indicated that Respondent No.1 was entitled to be paid transfer benefits as applicable in accordance with the policy.
- c) It is stated that Respondent No.1 had challenged his transfer from Delhi to Lucknow branch initially by filing a suit which was registered as Suit No.49/2000. Respondent No.1 had also filed an application under Order XXXIX Rule 1 and 2 of CPC for ad-interim ex-parte stay against his transfer. The said application was dismissed by the Ld. Civil Court vide Order dated 06.04.2000. Be that as it may, the Respondent No.1 raised his dispute by filing a claim before the Conciliation Officer during the pendency of the Suit. However, the said



Suit was later on withdrawn by Respondent No.1.

- d) The conciliation proceedings failed and vide a Reference bearing No.F24(987)/2001-Lab./16062-66 dated 29.06.2001, the Secretary (Labour), Govt. of NCT of Delhi referred the dispute between the Appellant and Respondent No.1 to the Ld. Tribunal for adjudication. The Reference reads as under:

“Whether transfer of Sh. Satbir Singh from Delhi to Lucknow is illegal, unjustified and/or mala-fide and if so, what directions are necessary in this respect?”

- e) It was the case of Respondent No.1 before the Ld. Tribunal that his transfer is illegal and mala-fide and an act of victimisation by the Appellant primarily on the ground that he was active in the Union and the management of the Appellant got annoyed because of the Union activities. The said claim was objected to by the Appellant by contending that the transfer of Respondent No.1 was based on the terms of the employment as stipulated in the service manual which is applicable to all the employees and the transfer of Respondent No.1 has been made due to administrative reasons and as per the requirements of the Appellant herein at the workplace. It was stated that Respondent No.1 had been given increments from time to time even after the Respondent No.1 had become an active Union member.
- f) The principal issue which arose before the Ld. Tribunal was whether the action of management of the Appellant



transferring the Respondent No.1 from Delhi to Lucknow was illegal or justified.

- g) The Ld. Tribunal vide its Award dated 27.05.2005 noted that Respondent No.1 was elected as a Vice President of the Union in the year 1996. A Show Cause Notice cum Suspension Order dated 14.02.1996 was issued to Respondent No.1 which was later on withdrawn. The management of the Appellant transferred Respondent No.1 to Lucknow vide Transfer Letter dated 02.02.2000 after promoting him as an Operation Supervisor in the grade of SR. The Ld. Tribunal noted the case of Respondent No.1 that there was no vacancy at Lucknow against which he has been transferred and the work at Lucknow branch was being taken care of by a Contractor and apart from posting of Respondent No.1, no other employee has been transferred to Lucknow. The Ld. Tribunal noted that there was no administrative exigency which would compel the management of the Appellant to transfer the Respondent No.1 to Lucknow. The Tribunal was of the opinion that no Unionist/Trade Union Leader or the Office Bearer of the Union should be forcibly given a promotion and then posted out of place of working. The relevant portion of the Order of the Ld. Tribunal reads as under:

“12. I have carefully gone through the material supplied by the parties. The admitted position is that the management passed the order of the transfer posting the claimant by giving the



promotion in the scale of Grade SR against the vacant post. I am of the considered opinion that no unionist/trade union leader or the office bearer of the union should be forcibly given the promotion and then to post out of place of working i.e. Delhi in the present case. The management has failed to establish that the claimant has accepted the promotion order with the transfer in any other place than Delhi. The claimed service rule was never made the part of the appointment or the term of the appointment in the case of claimant and it was never conveyed to the claimant. In such a situation, there can hardly be any legality and justification in the transfer of the claimant.”

(emphasis supplied)

- h) The aforesaid Award dated 27.05.2005 passed by the Ld. Tribunal was challenged by Appellant before this Court by filing a writ petition being W.P.(C) 11727/2005. The Ld. Single Judge vide the Impugned Judgment dated 27.05.2024 upheld the Award by holding that the Order of transfer is mala-fide and that the Appellant has not been able to establish any administrative exigency which would justify the transfer of Respondent No.1 to Lucknow, especially, when the work at Lucknow branch was being carried out by a Contractor and no employee was working in Lucknow against whose vacancy, the Respondent No.1 has been transferred.
- i) It is this Judgment dated 27.05.2024 passed by the Ld. Single Judge which is under challenge in the present appeal.



3. Learned Counsel appearing for the Appellant contends that Respondent No.1 had joined the Union in the year 1996. He states that Respondent No.1 has been given salary and increments regularly and even a loan was also sanctioned to him. He states that Respondent No.1 was first promoted as an Operation Supervisor in the Grade C-1 and, thereafter, he was promoted as an Operation Supervisor in the grade of SR. He states that after being given second promotion, the Respondent No.1 has been transferred to Lucknow branch. He draws attention of this Court to the evidence adduced before the Ld. Tribunal to indicate that the work at Lucknow branch was being supervised by the Branch Manager of Delhi. He states that the Branch Manager has deposed that the work at Lucknow branch was being done by the franchise i.e., business associates of the management. He states that it has categorically been stated by the Branch Manager that Respondent No.1 was transferred to Lucknow branch against a newly created vacancy to supervise the work at Lucknow branch.

4. Learned Counsel for the Appellant contends that the decision of the Appellant to transfer and post Respondent No.1 at Lucknow branch to supervise the work being done at Lucknow branch rather than supervise the work being done at Delhi cannot be said to be mala-fide as the same has been done because of administrative exigency only.

5. *Per contra*, learned Counsel appearing for Respondent No.1 supports the Impugned Judgment dated 27.05.2024 passed by the Ld. Single Judge and the Award dated 27.05.2005 passed by the Ld. Tribunal.

6. Heard learned Counsel appearing for the Parties and perused the material on record.



7. It is well settled that transfer is an incident of service and is made to meet administrative exigencies to ensure smooth functioning of the administration and need not be interfered by the Courts unless the transfer has been made in a vindictive manner or against the Rules or the policy of the employer or is effectuated by mala-fide. No employee can insist that he should be appointed and continued to be allowed to work at a particular place or position as long as he desires. Transfer of an employee is not only an incident of service inherent in the terms of appointment but also implicit as an essential condition of service in the absence of any specific indication in the contract. [Refer: Shilpi Bose (Mrs.) vs. State of Bihar, **1991 Supp (2) SCC 659**, Rajendra Roy vs. Union of India, **(1993) 1 SCC 148** & State of U.P. vs. Gobardhan Lal, **(2004) 11 SCC 402**].

8. The Courts and Tribunals while deciding a challenge to a transfer cannot sit as an Appellate Authority over a decision of transfer as it is the employer alone who could assess the niceties of the administrative needs and requirements of the situation concerned. The Courts and Tribunals cannot substitute their own decision in the matter of transfer over the decision arrived at by the employer.

9. The observation made by the Ld. Tribunal that no Unionist/Trade Union Leader or the Office Bearer of the Union can be transferred is completely contrary to the service conditions, and which have also been completely ignored by the learned Single Judge.

10. The observation that Respondent No.1 is not being posted against a particular vacancy at Lucknow branch and, therefore, a transfer cannot be effectuated, in the opinion of this Court, the same is also perverse. More so, a vacancy can always be created if there is an exigency. The work at



Lucknow branch was being done by a franchise and was being supervised by the Branch Manager at Delhi. The decision of the management to post Respondent No.1 at Lucknow branch to oversee the work at that place cannot be said to be effectuated by mala-fide, or punitive in nature, or that there was lack of exigency. What has been elicited from the cross-examination of the witnesses of the management actually proves the exigency, which has been completely overlooked by the Ld. Tribunal and the Ld. Single Judge.

11. In view of the above, the appeal is allowed. The Impugned Judgment dated 27.05.2024 passed by the Ld. Single Judge and the Award dated 27.05.2005 passed by the Ld. Tribunal stand set aside.

12. Pending applications, if any, also stand disposed of.

SUBRAMONIUM PRASAD, J

SAURABH BANERJEE, J

AUGUST 11, 2025

S. Zakir