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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO.15385 OF 2025**

**ATUL  
GANESH  
KULKARNI**

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Avient Materials India Pvt. Ltd.

... Petitioner

**V/s.**

Harishchandra Balaram Gaikwad

... Respondent

Mr. Kiran Bapat, Senior Advocate i/by Mr. Nikhil Dongre for the petitioner.

Mr. Nitin Kulkarni for the respondent.

**CORAM : AMIT BORKAR, J.**

**DATED : JANUARY 23, 2026**

**P.C.:**

1. The petitioner challenges the judgment and order dated 20 August 2025 passed by the Industrial Court below Exhibit O-1 in Complaint (ULP) No. 121 of 2025. By the said order, the Industrial Court granted stay on the transfer order issued by the petitioner.
2. The relevant facts are as follows. The petitioner is a private limited company engaged in manufacturing specialty polymer formulations, colours and additive systems, and packaging solutions. The company has plants in Maharashtra and Gujarat. The respondent was first appointed as Technical Executive. He is now working as Operator.
3. The petitioner states that in April to May 2024 the management discussed the need for an experienced and responsible person for the post of production or mixer operator at

its plant at Village Rania, Taluka Savli, District Vadodara. The petitioner claims that the respondent has 14 years of experience in the production process. The petitioner further states that although the respondent was identified as suitable for transfer to Vadodara, the transfer was not made earlier due to the respondent's health condition. However, on 29 July 2025 the petitioner issued an order transferring the respondent to Vadodara.

4. The respondent filed Complaint (ULP) No. 121 of 2025 alleging that the transfer is mala fide and amounts to victimisation. He claims that he was actively involved in Union activities, including submitting a charter of demands and signing a settlement. He therefore contends that the transfer amounts to an unfair labour practice under Items 3, 4, and 9 of Schedule IV of the MRTU and PULP Act.

5. The petitioner contested the complaint. It filed a reply and produced emails to justify the transfer. The petitioner pointed out that the respondent was identified for the post on 30 April 2024. According to the petitioner, the settlement and Union activities relied upon by the respondent took place in 2025.

6. By the impugned order, the Industrial Court granted stay on the transfer. It held that the petitioner had victimised the respondent as he was an active Union member. It also held that the respondent's qualifications were not suitable for the said post. The petitioner has therefore filed the present writ petition.

7. Mr. Bapat learned Senior Advocate for the petitioner relied on emails from the year 2024 to show that the need for an

experienced operator arose in 2024 and that the respondent was identified by name at that time. He submitted that no immediate decision was taken. He submitted that the alleged new charter of demands and the alleged failure to implement settlement arose only in 2025. He argued that once the respondent had been identified as suitable for the post, the transfer cannot be called victimisation. He further submitted that the petitioner has placed detailed material to show administrative exigency. According to him, the Industrial Court ignored this material and the impugned order cannot stand.

8. Mr. Kulkarni learned Advocate for the respondent supported the impugned order. He submitted that the respondent signed the settlement and the new charter of demands and is an active Union member. He submitted that the transfer order dated 29 July 2025 was issued only after he submitted the demands. He argued that the management could have implemented its decision of 30 April 2024 if it was genuine. According to him, the transfer was intended to victimise the respondent.

**Reasons:**

9. Management initiated the need for an experienced operator in April-May 2024. The petitioner produced emails dated 30 April 2024 naming the respondent. Contemporaneous documents carry high probative value. If a person is identified for a post in 2024, that fact weakens a subsequent inference of punitive motive in 2025. The Industrial Court did not sufficiently explain why these documents were ignored.

**10.** The respondent's union activities, including signing a settlement and submitting demands, took place in 2025. Temporal proximity between protected activity and an adverse action can support an inference of victimisation. The Industrial Court relied on the close timing between the demands and the 29 July 2025 transfer. Temporal proximity alone can be evidence. It is not by itself conclusive. The Court must examine whether the management had an independent, plausible administrative reason for transfer that is supported by contemporaneous records.

**11.** The petitioner said administrative exigency justified the transfer. The petitioner produced emails from 2024 and other material explaining the need for an experienced operator. The petitioner also relies on the respondent's alleged health issue to explain the delay in effecting transfer. The existence of an earlier identification and written correspondence supports the petitioner's case. The question is whether the Industrial Court was entitled at interlocutory stage to reject these explanations and make a conclusive finding of mala fide motive.

**12.** The petitioner pleaded that health reasons delayed the transfer. To rely on this explanation the petitioner must produce contemporaneous medical evidence or records showing the respondent's inability to be transferred during the period in question. Absent credible medical proof, the health explanation is of limited value.

**13.** The Industrial Court found the respondent both victimised for union activity and not suited by qualification for the post.

These two findings point in different directions. If the respondent was not qualified, then the transfer would appear justified on suitability grounds rather than punitive grounds. The Court did not reconcile these findings. A reasoned reconciliation is necessary on the facts.

**14.** A party seeking interlocutory relief must establish a prima facie case, balance of convenience, and irreparable injury. Here the Industrial Court granted a stay on the transfer. At the interlocutory stage the Court must not make final findings on disputed facts when there is contrary contemporaneous material that invites fuller inquiry. The presence of the April 2024 emails naming the respondent creates a triable issue. The Industrial Court should have preserved the status quo only where the allegations of mala fide conduct were clear and strong on the record. That threshold was not met.

**15.** On the material before this Court the Industrial Court's grant of stay was premature. The petitioner produced contemporaneous documents that justified transfer planning in 2024. The respondent produced evidence of union activity in 2025 and the proximity of the transfer. Both sides produce plausible explanations backed by documents. The matter is fact heavy and calls for a full hearing.

**16.** The Industrial Court therefore erred in arriving at a conclusive finding of victimisation at the interlocutory stage while ignoring or undervaluing the petitioner's contemporaneous documents. The proper course is to decide the complaint on merits after full evidence and reasons. Interim relief in the form of a stay

of transfer should not have been granted on the present record.

**17.** For the reasons stated above, the impugned order dated 20 August 2025 is set aside. The complaint in Complaint (ULP) No.121 of 2025 shall be restored for final hearing before the Industrial Court.

**18.** The Industrial Court shall decide the complaint on merits within six months from the date on which a copy of this order is produced to the Industrial Court.

**19.** The respondent shall comply with the transfer order dated 29 July 2025 subject to the Industrial Court's final adjudication.

**20.** No order as to costs.

**(AMIT BORKAR, J.)**