
(2010) 05 DEL CK 0105

In the Delhi High Court

Case No : Writ Petition (C) No. 2094 of 2010

P.K. Jha

APPELLANT

Vs

Minerals and Metals Trading Corporation

RESPONDENT

Date of Decision : 26-05-2010

Acts Referred:

Citation : (2010) 05 DEL CK 0105

Hon'ble Judges : Veena Birbal, J

Bench : Single Bench

Advocate : Manish Kumar, for the Appellant; Rajinder Dhawan and Shafaalii Dhawan, for the Respondent

Final Decision : Dismissed

Judgement

Veena Birbal, J.—Rule.

With the consent of parties, matter is taken up for final disposal.

2. The case of the petitioner is that he joined Mica Trading Corporation of India Ltd. (hereinafter referred to as "MITCO") on 13.11.1985. The said company was originally incorporated on 18.06.1973 as a 100% subsidiary of the respondent and the same now forms the Mica Division of the respondent. On 01.04.1985, the respondent came up with a "MMTC (Staff) Promotion Policy, 1984". Clause 6.1 of the said promotion policy provides that there will be no transfer in the staff cadre from one region to another except if the same is due to vigilance proceedings and/or desired by some outside agency like CBI. On 08.04.1996, MITCO merged with the respondent under the Rehabilitation Scheme and the staff officials of MITCO became the employees of the respondent.

It is alleged that the petitioner and other similarly placed employees made a representation to the respondent for giving them a benefit of pay revision which have been given to other employees (other than merged employees from the erstwhile MITCO) of the respondent but the respondent did not pay any heed to it. Petitioner and other employees have also filed a writ petition bearing No.

9994/2009 against the respondent seeking indulgence of this Court for giving their dues at par with the employees of the respondent.

It is alleged that in order to harass the petitioner and few other employees, respondent had issued transfer orders with the sole motive to harass them. It is stated that the petitioner has been transferred to Mata Vaishno Devi Shrine Bhavan, Jammu vide office order dated 20.01.2010 on rotational basis. On 29.01.2010, another office order has been issued whereby the petitioner has been relieved from the office at Jhandewalan in order to join at Jammu. Petitioner requested for a cancellation of the transfer order as the petitioner has an old aged mother of 95 years as well as a son who has to undergo surgery for his legs which were fractured. Petitioner also requested that he was unable to go with the meagre salary. Petitioner applied for an earned leave which was turned down. It is prayed that the impugned transfer order dated 20.01.2010 is in violation of "MMTC Staff Promotion Policy, 1984" and as such the petitioner cannot be transferred there. Learned Counsel for the petitioner has relied upon an order of the High Court of Orissa, Cuttack in W.P.(C) No. 15091/2009 wherein the transfer was done from Paradeep to Sanchi showroom, Mata Vaishno Devi Bhawan. The said High Court vide order dated 20.10.2009 has issued directions to reconsider the transfer of petitioner therein to any other region in terms of policy decision of the respondent.

3. Reply has been filed on behalf of the respondent wherein allegations of harassment are denied. Respondent has admitted that there is a "Staff Promotion Policy" as per which there will be no transfer in the staff cadre from one region to another except in case of vigilance proceedings or as desired by the outside agencies like the CBI. It is alleged that there is no violation of the aforesaid "Staff Promotion Policy" as is alleged and the place where the petitioner has been sent vide office order dated 20.01.2010 i.e. comes under the "Jhandewalan Regional Office" where the petitioner is presently working.

It is contended that the "promotion policy" relied upon by the petitioner does not prohibit the transfer of the staff within the same region and the said showroom where petitioner has been sent falls under Jhandewalan region office where petitioner is presently working. Therefore, the transfer is within the same region.

4. I have considered the submissions made and perused the material on record.

The relevant portion of the "MMTC (Staff) Promotion Policy" which is necessary for the disposal of present petition is reproduced as under:

6. Transfer

6.1 There will be no transfer in the staff cadres from one region to another except if the same is due to vigilance proceedings and/or desired by outside agency like CBI, etc.

5. The question to be seen is as to whether the transfer in question is in violation of aforesaid policy.

6. The stand of the respondent is that the present transfer is within the same region. In support of this, learned Counsel has placed on record Annexure R1/1 which shows the list of respondent's offices region wise. The relevant portion is as under:

Jhandewalan Regional Office

Jhandewalan Jewellery Complex, F-8-11 Flatted Complex,
Rani Jhansi Road, New Delhi - 110055.

Tel.:011-23623950, 23623952, FAX-23633175, 23671369

E-mail : head_jjc @ mmtclimited.com

Sanchi Showrooms

- i. SCOPE Building, Ground Floor, Core-I, Lodi Road, New Delhi.
- ii. Jhandewalan Jewellery Complex, Rani Jhansi Road, New Delhi
- iii. Mata Vaishno Devi Shrine Board, Mata Vaishno Devi Bhawan.

7. It is seen that Sanchi Showroom at Mata Vaishno Devi Shrine Board, Mata Vaishno Devi Bhawan comes within the "Jhandewalan Regional Office" of the respondent and transfer is in the said regional office itself. Annexure-R/1, on Page 218 of the Paper Book shows various offices of respondent like corporate offices, offices at South Zone, Bellary regional office, Hyderabad regional office, Bengaluru regional offices, offices at East Zone, offices at West Zone, etc. Had the petitioner been transferred to one of these offices, then his contention is correct. Here the transfer is being done in the same regional office as such contention raised has no force.

8. Counsel for respondents has contended that in the case, W.P.(C) No. 15091/2009 relied upon by counsel for petitioner, the transfer was not in the same region but was from one region to another i.e. from Paradeep which comes under "Bhubaneswar Regional Office" to Sanchi Showroom, Mata Vaishno Devi Bhawan (under ROJJC) which is under a different Regional Office, as such said judgment has no applicability to the facts of the present case. Nothing contrary is pointed out by counsel for petitioner.

9. It may also be mentioned that transfer/posting order dated 20.01.2010 is for a limited period i.e. from 29.01.2010 to 30.04.2010 (which is already over), 30.07.2010 to 15.10.2010 and from 29.12.2010 to 28.02.2011 which are for short period.

10. Though the petitioner has alleged harassment against respondent but has not placed on material any record to substantiate the same.

11. As regards the ailment of his mother and son is concerned, same has been considered by the respondent and a letter dated 25.05.2010 is placed on record

wherein it is stated that in his latest family declaration, petitioner has not shown his mother as dependent upon him and also not submitted any documents in support of ailment of his son. Further, in the present writ petition, no material is placed on record to substantiate the same.

12. Learned Counsel for respondent has pointed out that at the place of posting at Jammu, petitioner will get free food, boarding, lodging and Rs. 2,500/- per month as daily allowance.

In view of above discussion, by issuing impugned order dated 20.01.2010 respondent has not violated the "Staff Promotion Policy" as is alleged. In any event, it is not the case of petitioner that the same is a statutory policy.

13. Further, it is the prerogative of the management as to which employee should be sent at which place in accordance with the exigencies of work. It is also no more res integra that the transfer/posting of an employee is within the domain of an employer, who has to take a decision when and where an employee is to be transferred from his present posting. The employee does not have the vested right to work at a particular place. Law is also well settled that the court should be stopped to interfere with the order of transfer. The court should not interfere with a transfer order unless such transfer is vitiated by violation of some statutory provision or suffers from mala fide as has been held in the case of .

14. In view of above discussion, the writ petition stands dismissed.