

(2013) 02 KL CK 0006
In the High Court Of Kerala
Case No : W.A. No. 318 of 2013

Sateesh Kumar S.

APPELLANT

Vs

Kerala Agro Machinery Corporation Limited.

RESPONDENT

Date of Decision : 26-02-2013

Acts Referred:

Citation : (2013) 138 FLR 297 : (2013) LabIC 1595 : (2013) LLR 577

Hon'ble Judges : Manjula Chellur, C.J;K. Vinod Chandran, J

Bench : Division Bench

Advocate : B. Ashok Shenoy, Smt. C.G. Preetha, K.V. George and P.N. Rajagopalan Nair, for the Appellant; E.K. Nandakumar and standing counsel M. Gopikishan Nambiar, for the Respondent

Final Decision : Dismissed

Judgement

K. Vinod Chandran, J.—The appellant, who had been a Deputy General Manager in the Palakkad Unit of the respondent-Corporation, assailed Exhibit P1 order transferring him to Patna as a part of the special marketing drive initiated by the Corporation. Admittedly the appellant's employment with the respondent-Corporation is transferable and the order has been issued by the Managing Director who is competent to transfer the appellant. The appellant challenges the transfer on the grounds of mala fides and also on the ground that there is no unit of the respondent-Corporation in Patna and without infrastructure, he would be unable to work in Patna and the transfer is actuated by the mala fides referred to herein. With regard to the issue of mala fides, the learned single Judge has noticed the decision of the Supreme Court in *State of U.P. and Others Vs. Gobardhan Lal*, and rejected the same. Looking at the pleadings, we are not convinced that there is any substance for the allegation of mala fides revealed in the writ petition or the appeal memorandum. The appellant merely asserts that he was contacted by higher-ups to initiate action against a person working under him and his refusal is projected as having irked the higher authorities. He does not say who made such a request; nor does he aver that the authority who

transferred him is involved in the alleged incident. It is also pertinent that none has been impleaded as the person on whom the mala fides are levelled against.

2. The next contention is, with respect to there being no unit in Patna, the place to where he is transferred. On going through the pleadings, it is clear that the respondent-Corporation had, at one time, Regional Offices at various States for marketing the products manufactured by it. The respondent is engaged in the manufacture of power tillers, power reapers, tractors, etc., which are marketed all over India and abroad. However, finding the establishment of Regional Offices financially in viable, the respondent-Corporation discontinued the same. Even the appellant was, at one time, posted at the Service Centre at Kanpur when such centre existed.

3. The respondent-Corporation in its counter-affidavit has set forth the reasons for effecting the transfer of the appellant along with some other senior officers. The sales, according to the respondent-Corporation, has considerably gone down in the financial year and there is an accumulation of the products manufactured for want of purchasers. The finished product accumulation is of a total value of around Rs. 25 crores. It was in this context that the respondent decided to depute its officers at the senior level to various States for effectively marketing its products. Having discontinued its units in the various States across India, the situation is still not viable for establishing and having a regular infrastructure at present. What the respondent intends is a special marketing drive, by which its officers deputed to the various States in India are required to work from their residences for the purpose of identifying purchasers and augmenting sales in the other States of the country.

4. We cannot find fault with the effort made by the Corporation to augment its activities. The appellant cannot, on a mere assertion that he is not part of the marketing team, absolve from his liability to transfer and work for the betterment of the Company. It is for the employer to decide as to where the services of an employee are best employed and the employee cannot have any say in the matter, unless the employment is not transferable or if transferable, the same is actuated by mala fides or effected by an authority not conferred with such powers. None of the said vices tarnish the action of the respondent-Corporation in transferring the appellant by Exhibit P1. For the aforesaid reasons, we do not find any ground to interfere with the judgment of the learned single Judge and we dismiss the appeal, leaving the parties to suffer their costs.