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**(1999) 07 DEL CK 0001**  
**In the Delhi High Court**  
**Case No : CW. No. 2073 of 1999**

S.C. Dubey

APPELLANT

Vs

Union of India

RESPONDENT

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**Date of Decision :** 12-07-1999

**Acts Referred:**

Constitution of India, 1950 — Article 226

**Citation :** (2000) 86 DLT 523

**Hon'ble Judges :** K. Ramamoorthy, J

**Bench :** Single Bench

**Advocate :** Mr. Rajiv Nayar and Mr.C. Mukund, for the Appellant; Mr. Mukul Rohtagi and Mr.V. Shekhar, for the Respondent

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## Judgement

K. Ramamoorthy, J.—The second respondent is a public sector undertaking engaged in the manufacture of electronic instruments and manufacture of colour TVs and engaged in other activities with reference to electronics. The Headquarters of the second respondent is in Hyderabad and its factory is also in Hyderabad. The second respondent has been having officers in all over India. In the manufacture of colour TVs, the second respondent had been for nearly ten years incurring losses. Therefore, the second respondent decided to close down the manufacture of colour TVs. The second respondent had its sale and service sections/wings for colour TVs in all over India on zonal basis. When the losses were mounting and going on beyond unmanageable limit, the second respondent decided to close down the manufacture of colour TVs.

2. The effect was that it had to restructure its zonal wings and to cut short its establishment so that loss is avoided. In the process of restructuring its business, the second respondent formulated a scheme giving option to the employees in the zone who had likely to lose their employment in the second respondent. None of the employees concerned came forward to exercise his option. That gave rise to a lot of managerial problems and the second respondent evolved a method to get all such employees to Hyderabad to provide them employment so

that they can continue to serve the company in different fields. Transfer orders were issued by the second respondent in respect of employees in all zones.

3. With reference to northern zone, the transfer order reads as under:-

Sub: Transfer of ICG Employees - Reg.

The following employees of ICG/North Zone are hereby transferred to ICG/Hyderabad w.e.f. 1999.04.02.

S. Name Code No. Designation No. S/Shri 1. GOVIND LAL 061742 TM 2. DUBEY S.C. 077127 STO 3. SADHAWANI M.L. 077993 STO 4. KAPOOR K.L. 061962 SO 5. PAL S.K. 046955 FM 6. SHARMA R.N. 061761 AFM 7. BALWAN SINGH 055937 T/E 8. ASHOK KUMAR 084637 T/E 9. TALWAR S. 094927 T/E 10. HAMID KHAN A. 062016 T/C 11. RAJ KUMAR 062021 T/C 12. ROOPCHAND 062049 T/C 13. BANGARI D.S. 062054 T/C 14. MOHAN SINGH 066712 T/C 15. JAGANNATH G. 061924 SR.SA 16. BHAGAT H.K. 061943 SR.SA 17. JAIN A.K. 081508 SA 18. BRIJ MOHAN 081359 TMT B 19. KAUSHIK A.K. 059546 STO 20. HARISH KUMAR 107653 OA 21. SITA RAM SHARMA 077639 TMT C 22. CHAUHAN D.S. 054892 STO 23. OBERIO A.K. 081694 T/E 24. INDERJIT SINGH 081752 T/E 25. NATH RAM 081733 TMT B 26. SARDAR SINGH 081747 TMT B 27. AMARSINGH 081785 TMT B 28. YUVRAJ MDHIMAN 110189 TO 29. DURGA PRASAD L. 077405 FM 30. NIRMALKAR C.L. 077716 T/E 31. MISHRA M. 107978 SA 32. RATANLAL SAHU 078435 TMT C

On transfer the above employees will report to Head/ICG at Hyderabad.

The above employees are eligible for transfer TA/DA etc.

This issues with the approval of Chairman & Managing Director."

4. With reference to western zone, the transfer order reads as under:-

Sub: Transfer of ICG Employee- Reg.

The following employees of ICG/West Zone are hereby transferred to ICG/Hyderabad w.e.f. 1999.04.02.

S. Name Code No. Designation No. S/Shri 1. MEHTA N.K. 054672 SM 2. VYAS S.S. 044985 SO 3. ATKARI D.N. 046204 SO 4. SAWANT R.S. 050029 SO 5. SRIDHARAN K. 073341 ASO 6. THASAL B.T. 029318 SAA 7. PARAB R.D. 041798 T/E 8. MOHD ALI S. 050216 T/E 9. KULKARNI P.V. 052439 T/E 10. SHINDE M.N. 061666 T/E 11. SHAIK IQUBAL B. 064995 T/E 12. JAL GAONKAR H.B. 066271 T/E 13. GHOLAP B.T. 079336 T/E 14. SHAIKH M.R.A. 088356 T/E 15. JOSEPH V.A. 054208 T/C 16. SALUNKE K.B. 056637 T/C 17. BILE V.N. 061574 T/C (WZ) (Mumbai) 18. KARMARKAR S.D. 061608 T/C 19. NANGARE V.T. 064134 T/C 20. PARAS S.V. 064148 T/C 21. SATPUTE S.D. 057601 SR.SA 22. SHAIKH M.S. 083813 SR.SA 23. THAKUR M.M. 050034 SA 24. SALGAONKAR K.K. 10188 SA 25. KAPDELE S.N. 103177 SA 26. GAVADE J.Y. 054193 TMT D 27. PATIL P.J. 054213 TMT D 28. BALA KRISHNAN A.P. 056618 TMT D 29.

DASGUDE P.G. 077438 STD 30. JOSHI A.N. 066558 SR. SA WZ (Pune) 31. KOHAT M.P. 001667 STO 32. KALE A.K. 109948 T/D 33. PANTAWARE K.R. 107595 SA (WZ) (Nagpur)

On transfer the above employees will report to Head/ICG at Hyderabad.

The above employees are eligible for transfer TA/DA etc.

This issues with the approval of Chairman & Managing Director."

5. With reference to eastern zone, the transfer order reads as under:-

Sub: Transfer of ICG Employees -Reg.

The following employees of ICG/EZ (Calcutta) are hereby transferred to ICG/ Hyderabad w.e.f. 1999.04.02.

S. Name Code No. Designation No. 1. CHOWDHURY S.N. 058094 STO 2. HALDER A.K. 070374 SO 3. BIPLAB MANDAL 027961 SFM 4. MUKHERJEE R. 058109 FM 5. JAYDEB CHANDRA 058171 FM 6. ROY CHOWDHURY N.K. 091932 T/E 7. SAHA S.N. 061148 T/D 8. CHOUDHURI S.P. 109895 T/C 9. MAHUA CHAKRABORTY 070388 SA 10. MALLIK S.C. 073226 SA 11. MUKHERJEE D. 089851 ASST 12. SARKAR S.C. 103326 SA 13. SKUMAR PATRA 077922 STENO 14. SUKLA CHANDA 113539 UDC 15. DUTTA S.G. 029266 LVD 16. DAS N.C. 061038 TMT C 17. ROY D.K. 069189 TMT C 18. SWAIN R.C. 069247 TMT C 19. CHOUDHARY H. 069319 TMT C 20. DAS T.K. 069381 TMT C On transfer the above employees will report to Head/ICG at Hyderabad.

The above employees are eligible for transfer TA/DA etc.

This issues with the approval of Chairman & Managing Director."

6. With reference to central zone, the transfer order reads as under:-

"Sub: Transfer of ICG Employees- Reg.

The following employees of ICG/CENTRAL ZONE are hereby transferred to ICG/ Hyderabad w.e.f. 1999.04.02.

S. Name Code No. Designation No. S/Shri 1. KRISHNA MOHAN K.V.S. 110998 STO cz 2. JYOTI RANI S. 103881 SA (CZ) (Vijawada) 3. UMA SHANKAR RAO M. 043348 FM 4. MURTHY M.S.N. 500149 T/E

On transfer the above employees will report to Head/ICG at Hyderabad.

The above employees are eligible for transfer TA/DA etc.

This issues with the approval of Chairman & Managing Director."

7. With reference to southern zone, the transfer order reads as under:-

Sub: Transfer of ICG Employees.

The following employees of ICG/SOUTH ZONE are hereby transferred to ICG/

Hyderabad w.e.f. 1999.04.02.

----- S. Name Code No. Designation  
No. S/Shri =====  
===== 1. THYAGARAJAN V. 043768 MGR 2. VISVESWARAN M.J. 002412  
SFM 3. PRASADA RAO V. 038401 PS I 4. NAGESWARA RAO M. 101342 T/C (SZ)  
(Chennai) 5. SELVA RAJ R.V. 101361 T/D 6. PRASAD G.K.S. 087144 T/D 7.  
SUMATHI RAMAN 087709 SA 8. SAKURA RAMAKRISHNAN 061725 ASO 9. RAMA  
MURTHY 093863 T/E 10. RANGA SWAMY T. 093677 T/E 11. SHYAMALA SRIPAD  
C. 110506 SA (SZ) (B"lore) 12. GAJENDRAN K. 094434 TMT B 13.  
NARAYANAPPA A. 094621 TMT B 14. GOVINDAIM 094633 TMT B 15.  
RAMAKRISHNAN P.V. 059623 STO 16. BALACHANDRAN M.P. 014939 SFM (SZ)  
(Coimbatore) 17. SUBRAHMANYAM K.K. 052411 ASO 18. LAKSHMI NARAYANA  
S. 081799 TM 19. SARANGADHARAN K. 047267 FM 20. DHANDRAN K.K.  
076408 TM 21. PILIAI F.R. 061957 SR.SA (SZ Ernakulum) 22. SANKARAN A.V.  
056929 SR.STENO 23. SHANKARAN K. 066692 RMT C

On transfer the above employees will report to Head/ICG at Hyderabad.

The above employees are eligible for transfer TA/DA etc.

This issues with the approval of Chairman & Managing Director."

8. To show that arrangements had been made to accommodate the employees, the second respondent had placed on record at pages 201 to 207 the details with reference to the project wherein the employees from various zones, who had been transferred to Hyderabad, could be given employment. Though with reference to northern zone, the order of transfer as issued on the 4th of February, 1999, it was not given effect to in the interests of the employees concerned as the second respondent was in the process of finalising the project in Hyderabad.

9. The petitioners presented the writ petition in this Court on the 7th of April, 1999 and this Court on the 9th of April, 1999 passed the ad interim orders in the following terms:-

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Mr. Nayyar, the Learned Senior Counsel for the petitioners states that the page 60-A (Annexure-M) is a list of the employees who are proposed to be transferred to Hyderabad.

Issue notice to the respondents to show cause as to why the writ petition be not admitted returnable on 5.8.1999.

CM. 5010/99

Notice returnable on 5.8.1999.

In the meanwhile, the operation of the impugned order dated February 4, 1999 (Annexure-M at page 60-A) shall remain stayed until further orders.

DASTI,"

10. The second respondent had filed the application for vacating the stay mentioning the circumstances under which the orders of transfer from all zones to Hyderabad were made. The petitioners have challenged the orders of transfer on various grounds and that is resisted by the second respondent.

11. Mr. Rajiv Nayar, the learned senior counsel for the petitioner, submitted that:

1. The order of transfer was issued as a counter blast to the attitude of the petitioners not accepting the voluntary retirement scheme formulated by the second respondent.

2. The transfer is punitive in nature and it is really a camouflage to give an error verisimilitude to the order of transfer and the closure of ICG business is not a genuine reason.

3. The purported reason for transfer that there is no business for the Corporation, as a matter of fact there is enough business and there is lot of demand for colour TVs manufactured by the second respondent and the business of the second respondent is growing.

4. Officers of the second respondent after having stated the situation, had requested the management to keep 25 persons out of 32 for being located in the north zone and letter in this behalf was issued by Zonal Manager and that has been ignored by the second respondent.

12. Mr. Rajiv Nayar, the learned senior counsel for the petitioners, relying to elaborate points, submitted that voluntary retirement scheme was issued on the 13th of January, 1999 and the last date fixed was the 16th of February, 1999. No one has come forward with the offer to retire. On the 4th of February, 1999, the order of transfer was issued. The learned senior counsel referred to the acceptance of voluntary retirement by Shri Jagannath G and Shri Brji Mohan, who are at items 15 & 18 respectively in the transfer order dated 4.2.1999 and that would show that even after the last day fixed by the second respondent the applications by the above two employees had been accepted by the second respondent and the inference would be that the second respondent was exercising pressure on the employees, and according to the learned senior counsel, the second respondent had acted in a manner that others must follow suit.

13. The learned senior counsel for the petitioners, Mr. Rajiv Nayar, referred to the practice adopted by the second respondent to show that whenever there was closure of a particular section, the employees were retained in the same zone. The learned senior counsel submitted that no opportunity was given to the petitioners for being re-deployed in the same zone. The learned senior counsel also referred to the letter dated 8.2.1999 by the Zonal Manager about 25 employees. The learned senior counsel submitted that there was no justification for the employees not being re-deployed in the northern zone. The learned senior

counsel referred to other aspects about the letter issued by the Zonal Manager and the effect of closure of manufacture of colour TVs, and to cover wide field on facts. The learned senior counsel for the petitioners, Mr. Rajiv Nayar, relied upon the judgment of the Supreme Court in "National Radio Corporation Vs. Their workmen" 1963 1 LLJ 282.

14. Mr. Mukul Rohtagi, the learned senior counsel for the second respondent submitted that in a matter like this where the second respondent to meet its business exigencies has the right to restructure its business and in the process, it is entitled to evolve a method by which the employees who are likely to be sent out of service be given the benefit of voluntary retirement scheme, or they can be given employment so that they all could function until they attain the age of superannuation.

15. The learned senior counsel for the second respondent submitted that proper remedy of the petitioners to raise industrial dispute under the Industrial Disputes Act, 1947 so that so many factual aspects adumbrated in the writ petition could be adjudicated upon on proper footings by the Industrial Court, and the writ petition is not competent. The learned senior counsel further submitted that the order of transfer was issued with reference to all zones and it was in the circumstances in which the second respondent had to close the manufacture of colour TVs, and Therefore, the order of transfer cannot be challenged by the petitioners. The learned senior counsel for the second respondent Mr. Mukul Rohtagi, relied upon the following rulings in support of this proposition:-

1. B. Varadha Rao Vs. State of Karnataka and Others, .
2. "Gujarat Electricity Board Vs. Atmaram" 1989 SC 1433.
3. Mrs. Shilpi Bose and others Vs. State of Bihar and others, .
4. "Surinder Singh Vs. Haryana State" 1991 (4) SLR 699.
5. Rajendra Roy Vs. Union of India (UOI) and Another, .
6. N.K. Singh Vs. Union of India and others, .
7. Punjab National Bank and others Vs. All India New Bank of India Employees Federation and others, .

16. On the facts and circumstances, I am of the view that the petitioners have not made out any case for interference. The facts of the case in "National Radio Corporation Vs. Their workmen" 1963 1 LLJ 282 are entirely different. Here the second respondent a public sector undertaking, has been taking efforts to change the whole system of its functioning with a view to minimising the losses and to make profits in its business venture. In the process, the second respondent has to undertake such measures that are necessary for the proper conduct of its business. The second respondent having realised its responsibilities, had given an opportunity to the employees to opt for voluntary retirement and that was not acceptable to the employees, the second respondent was obliged to take other

steps in achieving its goal so that the business venture could be put on sound lines to earn profits as the second respondent was dealing with public money. In so doing, the second respondent had taken steps to have some projects to accommodate the employees from all zones in Hyderabad, and when that has been done, the petitioners cannot have any grievance in law. The petitioners have no right to say that the management should always act as per the directions of the employees, whatever may be the condition in which the management is functioning.

17. Under these circumstances, I am quite unable to persuade myself to accept the submissions made on behalf of the petitioners. Mr. Rajiv Nayar, the learned senior counsel for the petitioners, submitted that some of the petitioners are officers and some of them are workmen within the meaning of the Industrial Disputes Act, 1947 and the remedy under that Act could not be effected.

18. Under the circumstances, I am of the view that the petitioners are not entitled to any relief. The writ petition stands dismissed.

There shall be no order as to costs.