

(1995) 08 BOM CK 0049
In the Bombay High Court
Case No : Writ Petition 579 of 1988

Shivaji A. More

APPELLANT

Vs

Estate Manager, Maharashtra State Farming Corpn. Ltd. and
Another

RESPONDENT

Date of Decision : 04-08-1995

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1997) 3 LLJ 1082

Hon'ble Judges : B.N. Srikrishna, J

Bench : Single Bench

Advocate : R.R. Salvi, for the Appellant; Vijay Patil, for the Respondent

Judgement

1. This is a writ petition under Article 227 of the Constitution of India impugning an interlocutory order made by the Industrial Court, Pune, on November 26, 1987 in Complaint (ULP) No. 248 of 1987 and on January 4, 1988 in Review Application (ULP) No. 14 of 1987 declining to grant interim relief to the Petitioner to stay his transfer from one Department to another, under the provisions of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 (hereinafter referred to as "the Act").

2. The Petitioner was working as a Civil Mukadam in the service of the First Respondent for about 20 years. He was issued an order dated June 2, 1987 by which he was directed to work on the establishment of Lalpuri Section instead of Ratnapuri, though both establishments are admittedly in the same local area. The Petitioner, who was a Union Leader, took affront to this transfer and challenged his transfer by his Complaint (ULP) No. 248 of 1987 invoking Items 2(a), 4(a) and 4(b) of Schedule II and Items 3 and 5 of Schedule IV of the Act. Simultaneously, the Petitioner also made an application for interim relief to stay the transfer. The Industrial Court, by an interlocutory order made on November 26, 1987, declined to grant interim relief by taking the view that the provisions of Item 3 of Schedule IV of the Act were not attracted, since the transfer was an

inter-Departmental transfer, within the same local area. The Industrial Court also did not prima facie accept the case of victimisation put forward by the Petitioner. The Industrial Court accepted the contention of the First Respondent that the transfer was a routine administrative transfer due to exigencies of service and dismissed application for interim relief by its order dated November 26, 1987. Not being satisfied with this order, the Petitioner moved Review Application 14 of 1987. By a speaking order dated January 4, 1988, the Industrial Court dismissed the review application. Being aggrieved, the Petitioner is before this Court.

3. In view of the fact that more than seven years have passed since the Petition was admitted and interim relief was granted in the Petition, I asked learned Advocates on both sides as to what was the status of the original complaint today. Unfortunately, neither learned Advocates are in a position to enlighten me on this. Hence, irrespective of the status of the complaint, I am disposing of this writ petition on its own merits.

4. In my considered view, there is no merit in the writ petition. By now it is well settled that in matters of transfer, the employee who has been served with the transfer order must first report to the place where he is transferred and thereafter make a representation or take out legal proceedings there-against. The inconveniences arising from transfer have been held by the Supreme Court to be "normal incidents" of service, not justifying interference with transfer orders. In fact, these are considerations which would apply even in cases of employees transferred from one town or city to another town or city. In the instant case, there is a transfer order from one Department to another and the Industrial Court was perfectly justified in coming to the conclusion that not even a prima facie case of unfair labour practice had been made out. I am broadly in agreement with the reasoning and the conclusion of the Industrial Court in both its orders dated November 26, 1987 and January 4, 1988. I find no merit in the petition which deserves to be dismissed.

5. In the result, the writ petition is dismissed and the rule is discharged with no order as to costs.