

**IN THE INDUSTRIAL COURT, MAHARASHTRA, (CHANDRAPUR
BENCH), CHANDRAPUR.**

Complaint (ULP) No.01/2018
(CNR No.MHIC-34-000001/2018)

Manohar Maroti Yewale

.....versus.....

Maharashtra State Road Transport Corp.,
Chandrapur

ORDER BELOW EXH.U-2

(Passed on this 3rd Day of February, 2018)

Complainant has filed this complaint to challenge the transfer order dated 22.12.2017 thereby complainant came to be transferred from Warora Depot to Rajura Depot illegally and by disobeying the circular of the respondent.

2] Brief facts of the case are as under :-

Complainant is working with respondent as a conductor. Respondent issued transfer order dated 22.12.2017 by which he was transferred from Warora Depot to Rajura Depot. According to complainant, said transfer order is illegal, unlawful and respondent has not followed circular dated 03.05.2014, therefore, it is made with mala fide intention and by filing this application he prayed to stay the effect of said impugned transfer order.

3] Respondent appeared and by filing reply denied the contents of complaint. By special pleadings respondent contended that the circular dated 03.05.2014 is not applicable to the case of complainant. According to respondent, complainant has committed misconduct of misappropriation. Back service record of the complainant is poor and bad. Therefore, as per provision of circular no.2/2017 dated 01.02.2017 he is transferred, therefore, said transfer is on administrative ground and respondent has not acted mala fide while transferring the complainant.

4] Heard Shri Shikare learned representative for the complainant and Shri Urade learned Advocate for the respondent.

5] In view of the submissions of both sides following points arise for my consideration and my findings thereon with reasons are as under :-

POINTS**FINDINGS**

1] Whether complainant has prima facie case and balance of convenience lies in his favour?

: No.

2] Whether complainant is entitled for the interim relief?

: No.

3] What order?

: Application is rejected.

REASONS

6] **As to Point nos. 1 & 2** :- Learned representative for complainant mainly relied on the circular of respondent dated 03.05.2014 which shows that Class III employee i.e. complainant may be posted at one place for six years and thereafter he would be transferred i.e. too in the month of March of said year. According to complainant, this transfer order is dated 22.12.2017, therefore, it is mid term transfer and not according to circular of respondent. As against this, it is the case of respondent that complainant is facing enquiry for misappropriation of Government amount and in view of circular dated 01.02.2017 there are some provision for transferring the employees who have committed misconduct like misappropriation. Respondent relied on the said circular. Said circular is about provision of transfers of the employees who have misappropriated the amount of respondent Corporation. As per clause (b) of Rule 1 of said circular it is provided that if any employee or conductor is charged for allowing passenger to travel without ticket for third time then he may be transferred in another Depot. In view of this circular respondent relied on the letter of Divisional Traffic Superintendent which shows that complainant has committed third misconduct of allowing passenger to travel without ticket and not taking fare from said

passenger, therefore, he is proposed for transfer. Alongwith said letter, respondent produced on record list of misconducts committed by the complainant. It is also produced on record copy of charge-sheet issued against complainant. Considering all these facts if transfer order of complainant is perused in which it is mentioned that as per circular No.2/2017 dated 01.02.2017 complainant was transferred from Warora to Rajura. Therefore, it appears that there was charges against complainant and as per circular dated 01.02.2017 such employee may be transferred, complainant came to be transferred. Circular relied by the complainant is not applicable to the case of complainant as he is facing charges of misconduct. In view of this circular there is nothing to infer that without any reason complainant came to be transferred. Therefore, complainant has failed to show any prima facie case or balance of convenience in his favour. As such he is not entitled for interim relief. Therefore, by answering point nos.1 and 2 in negative, application is liable to be rejected, I pass following order.

ORDER

Application is rejected.

Chandrapur.

Date: 03.02.2018

Sd/-
(Pradeep H. Kale)
Member
Industrial Court, Chandrapur