

**IN THE SUPREME COURT OF INDIA**

**CIVIL APPELLATE JURISDICTION**

**Civil Appeal No 976 of 2020**  
**(Arising out of SLP (C) No 17872 of 2019)**

**Godrej and Boyce Manufacturing  
Company Limited**

**Appellant(s)**

**Versus**

**Rameshwar P. Gawade**

**Respondent(s)**

**WITH**

**Civil Appeal No 977 of 2020**  
**(Arising out of SLP(C) No 17887 of 2019)**

**Civil Appeal No 978 of 2020**  
**(Arising out of SLP(C) No 18100 of 2019)**

**ORDER**

**Civil Appeal No 976 of 2020**  
**(Arising out of SLP (C) No 17872 of 2019)**

Leave granted.

This appeal arises from the judgment of a learned Single Judge of the High Court of Judicature at Bombay dated 12 March 2019. The High Court rejected the writ petition filed by the appellant under Article 226 of the Constitution of India assailing an interim order of the Industrial Court at Satara dated 25 January 2019 by which the transfer of the respondent from Shirwal to Ahmedabad was stayed.

The respondent was appointed on 18 July 2012 as a Senior Technical Staff Associate and had been posted at Shirwal. Clause 8 (a) of the letter of

appointment specifically stipulates that his services can be transferred to any of the divisions, establishments or project sites of the employer at any location in India. The respondent was transferred on 2 May 2018 from the Plant at Shirwal to the establishment of the employer at Ahmedabad. The order of transfer was challenged by filing a complaint of unfair labour practices before the Industrial Court at Satara under the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act 1971.

Notice was served on the appellant on 5 May 2018 for appearance before the Industrial Court on the same day. Admittedly, no hearing took place before the Industrial Court on 5 May 2018. However, on 6 May 2018, which was a Sunday, an intimation was received by the Advocate appearing on behalf of the appellant telephonically from the office of Industrial Court, stating that the case would be heard on the said day. An ad-interim order was passed on 6 May 2018 by the Industrial Court directing the parties to maintain *status quo* until replies were filed.

By its order dated 25 January 2019, the Industrial Court stayed the order of transfer. The Industrial Court observed that it was not prepared to accept the case of the appellant that the transfer was on account of business exigencies since it was not believable that no one else apart from the complainant could perform the work at the Ahmedabad unit. Moreover, the Court observed that no specific request had been received from the Ahmedabad location for the transfer of an employee. Since the respondent did not join services at Ahmedabad after the order of *status quo*, it was not shown

that the business function had been hampered. On these grounds, the order of transfer was stayed.

The High Court has declined to interfere with the interim order of the Industrial Court.

Notice was issued in these proceedings on 5 August 2019 when the order of the Industrial Court was stayed by this Court.

From the material which has emerged from the record, it is evident that the services of the workmen are transferable. The grounds which have weighed with the Industrial Court in holding that *prima facie* a case of victimisation has been made out contain no germane reasons in support of the finding. The Industrial Court has proceeded on the basis of surmises. A *prima facie* case of victimisation or mala fides has to be established on the basis of material to the satisfaction of the Industrial Court.

In this view of the matter, we are of the view that the impugned order of the High Court declining to exercise its writ jurisdiction is unsustainable. We accordingly allow the appeal and set aside the impugned judgment and order of the High Court. As a consequence, the order passed by the Industrial Court staying the operation of the order of transfer shall stand vacated.

However, we request the Industrial Court at Satara to dispose of the complaint expeditiously and preferably, within a period of four months from the date of receipt of a certified copy of this order. Subject to the respondent joining his duties at his place of transfer within a period of two weeks from today, his wages shall be released.

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All the rights and contentions of the parties are kept open.

The observations contained in this order shall not come in the way of the disposal of the complaint before the Industrial Court.

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Since the facts of the above cases are similar, for the reasons indicated above, these appeals are allowed and the impugned orders of the Industrial Court and the High Court are set aside on similar terms.

....., J.  
[ Dr Dhananjaya Y Chandrachud ]

....., J.  
[ Hemant Gupta ]

New Delhi;  
February 03 2020.

