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IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1452 OF 2026

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**D.B. Corp. Limited (Dainik Bhaskar),**  
having office at 501, 5th Floor,  
Naman Corporation Link, Opposite  
Dena Bank, C-31, G Block, Bandra-Kurla  
Complex, Bandra (East), Mumbai  
through Anwar A.,  
Aged 41 years, the Chief Manager,  
HR of the Company

... Petitioner

Vs.

**Asburt Gonsalves,**  
having address at Philips House,  
Shetodi Wadi, Papdi, Vasai (West),  
District Palghar 401 207

... Respondent

Mr. Prahlad Paranjape with Ms. Shweta More, Mr.  
Saket Tare, Ms. Rupa Shaw i/by Mr. Atishay Jain for  
the petitioner.

Mr. Vinod Sanjiv Shetty for the respondent.

CORAM : AMIT BORKAR, J.

RESERVED ON : MARCH 27, 2026.

PRONOUNCED ON : APRIL 2, 2026

**JUDGMENT:**

1. By the present writ petition instituted under Articles 226 and 227 of the Constitution of India, the petitioner has assailed the order dated 24 September 2025 passed by the Industrial Court at



Mumbai in Complaint (ULP) No. 42 of 2025. By the said order, the Industrial Court has granted interim relief and stayed the operation of the transfer order dated 26 December 2014 issued by the petitioner.

2. The factual matrix giving rise to the present proceedings, as set out by the petitioner, is as follows. The respondent came to be appointed pursuant to an Appointment Letter dated 18 February 2008, which expressly stipulated in clear and unambiguous terms that the services of the respondent were liable to be transferred to any of the establishments or offices of the petitioner. It is the case of the petitioner that on account of prolonged, consistent and persistent non-performance, the services of the respondent were terminated by an order dated 30 August 2016 with effect from 31 August 2016. Being aggrieved, the respondent raised an industrial dispute, which came to be registered as Reference (IDA) No. 9 of 2018 before the Assistant Commissioner of Labour at Mumbai. The petitioner entered appearance in the said proceedings and contested the claim by filing its written statement on 14 January 2020. The Labour Court at Mumbai, by its Award dated 24 April 2023, allowed the reference and set aside the order of termination. The petitioner was directed to reinstate the respondent in service with continuity, along with full back wages and all consequential benefits. Aggrieved by the said Award, the petitioner preferred Writ Petition No. 3145 of 2024 before this Court. This Court, by its order dated 14 March 2025, dismissed the writ petition and upheld the Award passed by the Labour Court.



3. Being dissatisfied with the said decision, the petitioner carried the matter to the Supreme Court by filing Special Leave Petition (Civil) No.13636 of 2024. The Hon'ble Supreme Court dismissed the Special Leave Petition, thereby affirming the Award dated 24 April 2023. In compliance with the directions contained in the Award, the petitioner reinstated the respondent in service and paid back wages aggregating to Rs. 16,90,802/-.

4. It is the case of the petitioner that by communication dated 8 June 2023, the respondent was informed that since he had remained out of service for a considerable period of approximately eight years, the petitioner had engaged other personnel to discharge the duties of System Engineer. Consequently, at the time of reinstatement, no vacancy was available for immediate posting, and the respondent was assured that he would be informed as and when a suitable vacancy arose. Thereafter, in December 2024, a vacancy became available at the petitioner's Bhopal office. Accordingly, by letter dated 26 December 2024, the respondent was informed that his services were required at the Bhopal office and was called upon to report for duty at the said place on or before 2 January 2025. The petitioner, by subsequent communications dated 7 January 2025 and 19 February 2025, reiterated its direction to the respondent to report at the Bhopal office so as to ensure continuity and smooth functioning of operations. Despite the aforesaid communications, the respondent failed and neglected to comply with the transfer directions. It is alleged that the respondent neither reported at the transferred place of posting nor sought any leave, and remained absent from



duties without authorization. Instead, the respondent approached the Industrial Court at Mumbai alleging that the transfer amounted to an unfair labour practice. The respondent accordingly instituted proceedings under Section 28 read with Section 30(2) of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971. The petitioner opposed the said complaint by filing an affidavit in reply on 21 February 2025. By the impugned order dated 24 September 2024, the Industrial Court granted interim relief in favour of the respondent. The Industrial Court recorded a prima facie finding that the issuance of the transfer order by the petitioner constituted an unfair labour practice, and directed that the transfer order be kept in abeyance pending adjudication of the complaint. The Industrial Court further directed the petitioner to provide work to the respondent at its Mumbai office. Being aggrieved by the said order, the petitioner has invoked the writ jurisdiction of this Court.

5. Mr. Paranjape, learned Advocate appearing for the petitioner, submitted that the respondent was appointed pursuant to an Appointment Letter dated 18 February 2008, wherein the terms and conditions of service expressly provided that the respondent was liable to be transferred to any place within India. It is submitted that the respondent accepted the said terms without demur. During the course of his employment, the petitioner received several complaints pertaining to the respondent's performance, including allegations of habitual absenteeism and unsatisfactory discharge of duties. In view thereof, the services of the respondent came to be terminated in accordance with the



prescribed procedure. It is further submitted that during the period 2018–2019, the petitioner undertook a restructuring exercise whereby its entire computer systems across various offices in India were centralized and brought under the control of its Head Office at Bhopal. For this purpose, a dedicated team of IT Engineers was engaged at Bhopal. Consequently, the computer systems at the Mumbai office are also centrally managed from Bhopal. Any software-related issues arising in devices at Mumbai are resolved from the Bhopal office. It is further pointed out that the Mumbai office presently has approximately sixteen printers, which are maintained through third-party vendors under annual maintenance contracts. Insofar as laptops are concerned, more than fifty percent are under warranty and are maintained by the respective vendors, while the remaining are either serviced by third-party contractors or through centralized support from Bhopal. It is thus contended that there is presently only one System Engineer at the Mumbai office, whose services are required only in exceptional circumstances. According to the petitioner, there is no functional requirement for a System Engineer at Mumbai, and even the existing position is not necessitated by operational needs.

6. Learned Advocate for the petitioner further submitted that in the absence of any vacancy for the post of System Engineer at the Mumbai office, the petitioner has, in compliance with the Award dated 21 April 2023, continued to pay salary to the respondent without allocation of any work. It is submitted that while challenging the said Award before this Court in Writ Petition No.



3145 of 2024, the petitioner had specifically contended that no vacancy was available for the respondent at the Mumbai office.

7. It is further submitted that in December 2024, the petitioner established an extension facility at its Bhopal headquarters, from where centralized IT support is provided to all offices of the petitioner across India. In view of the absence of any available work or vacancy at Mumbai, the petitioner had no alternative but to transfer the respondent to its Bhopal office. Accordingly, in terms of service conditions, company policy, and administrative requirements, the petitioner issued the transfer order dated 26 December 2024, relieving the respondent from Mumbai office on the same date after office hours and directing him to report at the Bhopal office on 3 January 2025. It is submitted that the respondent was also informed about the admissibility of transfer-related benefits, including joining time and travelling expenses. It is thus contended that the transfer order cannot be termed as mala fide or actuated by any ulterior motive, such as compelling the respondent to resign or effecting termination indirectly. According to the petitioner, the respondent has deliberately failed to comply with the transfer directions and has instead instituted false and untenable proceedings. It is urged that no prima facie case is made out in favour of the respondent, nor does the balance of convenience lie in his favour. It is further contended that no irreparable injury would be caused to the respondent, as the transfer is in accordance with the terms of employment. It is emphasized that transfer is an incident of service and lies within the managerial prerogative of the employer. On these grounds, it is



prayed that the application for interim relief be rejected.

8. In support of the aforesaid submissions, learned Advocate for the petitioner has placed reliance upon the judgments of the Hon'ble Supreme Court in *National Hydroelectric Power Corporation Limited vs. Shri Bhagwan & Another*, (2001) 8 SCC 574, and *Rajneesh Khajuria vs. Wockhardt Limited & Another*, (2020) 2 SCC 86.

9. Per contra, Mr. Shetty, learned Advocate appearing for the respondent, submitted that the respondent has been subjected to continuous victimization at the hands of the petitioner. It is contended that the petitioner had illegally terminated the services of the respondent by order dated 30 August 2016 without adhering to the principles of natural justice and without any supporting evidence. Being aggrieved, the respondent raised an industrial dispute by filing Reference (IDA) No.9 of 2018 on 5 November 2018 before the Labour Court at Mumbai, seeking reinstatement with back wages. The Labour Court, by its Award dated 21 April 2023, allowed the reference, set aside the termination order, and directed reinstatement of the respondent with full back wages and consequential benefits with effect from 1 September 2016.

10. Learned Advocate for the respondent further submitted that the respondent had also lodged a complaint before the Assistant Commissioner of Labour, Mumbai on 19 September 2016 regarding non-implementation of the Majithia Wage Board Award. The said authority referred the dispute, being Reference No. 07 of



2019, to the Labour Court at Mumbai for recovery of arrears of wages. It is submitted that the respondent had informed the petitioner about the Award passed by the Labour Court both personally and through correspondence. However, the petitioner failed to comply with the same and instead challenged the Award before this Court by filing Writ Petition No.3145 of 2024, contending that no work was available for the respondent at the Mumbai office and seeking modification of the Award by grant of compensation. This Court, by order dated 14 March 2024, dismissed the writ petition. It is thus contended that the Award dated 21 April 2023 has attained finality and is binding upon the petitioner.

11. It is further submitted that despite the Award having attained finality, the petitioner failed to comply with its directions. Consequently, the respondent initiated proceedings under Section 33-C(1) of the Industrial Disputes Act, 1947 before the Assistant Labour Commissioner, Mumbai for recovery of back wages amounting to Rs.16,90,802/-. A recovery certificate dated 31 January 2024 came to be issued in favour of the respondent. Pursuant thereto, the Collector, Mumbai directed the Tahsildar, Andheri to recover the said amount as arrears of land revenue. The Tahsildar, Andheri, by communication dated 13 June 2024, called upon the concerned co-operative society to furnish details of the petitioner's properties and restrained the petitioner from transferring the same. It is submitted that only thereafter the petitioner paid the said amount to the respondent.



12. Learned Advocate for the respondent further submitted that despite clear directions in the Award, as confirmed by this Court, requiring reinstatement of the respondent on his original post, the petitioner has failed to comply with the same in its true spirit. It is contended that the impugned transfer order dated 26 December 2024 has been issued with a view to defeat the Award and to penalize the respondent for having initiated proceedings alleging unfair labour practices. According to the respondent, the transfer is a colourable exercise of power intended to victimise him and to circumvent the binding Award of the Labour Court.

13. It is further submitted that the respondent has been serving at the Mumbai office since 2008 and has established his residence and family life in Mumbai. The respondent has a working spouse, an aged mother, and a school-going child. In such circumstances, it is contended that relocation to Bhopal is not feasible. It is urged that the transfer order operates as a measure of victimisation and is intended to compel the respondent to resign. It is submitted that the complaint filed by the respondent before the Industrial Court is pending adjudication and would take time for final disposal. Therefore, it is contended that it is just and proper that the transfer order be kept in abeyance pending such adjudication. It is further urged that the respondent has made out a strong prima facie case and that the balance of convenience lies in his favour. It is contended that failure to grant interim relief would result in irreparable harm, as the petitioner may initiate disciplinary proceedings leading to termination. On these grounds, it is prayed that interim relief be granted.



14. In support of the aforesaid submissions, learned Advocate for the respondent has relied upon the decisions in *Venkitaramanan Potti vs. Travancore Devaswom Board*, 1993 II CLR 622, and *C. Prabhakaran vs. Southern Petrochemicals Industries Corporation Limited, New Bombay*, 2001 II CLR 272.

**REASONS AND ANALYSIS:**

15. The present matter is not about deciding the entire dispute finally. The Court is only concerned with a limited question at interim stage. The Industrial Court has granted interim protection to the respondent. Because of that order, the transfer has been stopped and the petitioner has been directed to give work to the respondent at Mumbai itself. The main complaint under the M.R.T.U. and P.U.L.P. Act is still pending. That complaint will take its own course and evidence will be led there. Therefore, this Court is not required to record final findings on all disputed facts. Still, the Court has to examine whether the Industrial Court was correct in granting such strong interim relief. For that purpose, the Court has to look into the material placed by both parties. It is necessary to see whether a proper prima facie case was made out, whether balance of convenience was considered, and whether any serious prejudice would be caused. Sympathy or personal hardship alone cannot guide such decision. The order must stand on legal reasoning and available material.

16. Coming to the basic facts, it is clear that the respondent entered service under an appointment letter dated 18 February 2008. That document is not denied by the respondent. In that



letter, there is a clear clause which states that his services can be transferred anywhere in India. It is a normal service term and it forms part of the contract between the parties. Once such a condition is accepted at the time of joining, the employee cannot later object to transfer as a general rule. Of course, there are exceptions. If the employee shows that the transfer is mala fide, or that it is actually a punishment in disguise, or that it violates some statutory protection, then the Court can interfere. But unless such strong grounds are shown, the transfer condition must be respected. In the present case, the petitioner has also pointed out that during the service period, complaints were received about the respondent's work and his absenteeism. On that basis, his services were earlier terminated. It is true that the Labour Court later set aside that termination and directed reinstatement with back wages. That award has also been confirmed by higher Courts. Therefore, the petitioner was bound to take him back in service. However, reinstatement only means restoration of employment. It does not mean that all other service conditions come to an end. The employer still retains the right to decide posting, place of work and distribution of duties, so long as it acts within the terms of service. Therefore, merely because the respondent has been reinstated, he cannot insist that he must be continued only at Mumbai, when the original contract itself allows transfer anywhere in India.

17. The petitioner has then tried to explain the reason behind the transfer to Bhopal. According to the petitioner, around the years 2018 to 2019, the company changed its system of



functioning. It centralized all its computer and IT related work at its Head Office at Bhopal. A full team of IT engineers has been placed there. The Mumbai office is no longer handling such work. Even for small issues, such as software problems in laptops used in Mumbai support is taken from Bhopal. The petitioner has also given details about printers and laptops. Printers are maintained by outside agencies under contracts. Many laptops are still under warranty and are handled by the supplier companies. The remaining devices are also managed either by contractors or by the central team at Bhopal. It is further stated that only one System Engineer is kept at Mumbai and even his work is very limited and required only in rare situations. When these facts are read together, they give an impression that the requirement of a System Engineer at Mumbai has almost reduced to nil. At least on a prima facie view this explanation appears to be consistent. It shows that the transfer is connected with restructuring of work. If the work itself has shifted to Bhopal then asking the respondent to work there cannot be said to be without reason. This is not a situation where an employee is transferred to a place where no work exists. The petitioner has shown that the main IT activity is now concentrated at Bhopal.

**18.** On the other side, the respondent has argued that this transfer is not genuine. According to him, it is only a second attempt by the petitioner to remove him from service indirectly. This argument cannot be rejected at once because the history between the parties shows that there was earlier litigation regarding termination. The respondent had to approach the



Labour Court. He also says that the petitioner did not immediately comply with the award and that he had to take steps for recovery of back wages. He therefore feels that the employer is acting with some ill intention. He points out that the transfer order has come soon after the award has become final. According to him, this timing itself shows that it is a retaliatory step. This submission needs careful consideration. It is true that sometimes employers use transfer as a method to put pressure on an employee who has succeeded in litigation. Courts have repeatedly said that such colourable exercise of power is not permissible. If a transfer is passed only to harass, or to force resignation, or to punish the employee for asserting his rights, then the Court can certainly interfere even at an interim stage.

19. However, the Court cannot proceed only on doubt or assumption. There must be some material which indicates mala fide intention. In the present case, the petitioner has placed on record the service condition, the restructuring of IT work, the absence of work at Mumbai, and the existence of work at Bhopal. These are all relevant factors. The respondent has not placed any document to show that the transfer decision was taken only because he filed complaints or litigation. The timing alone though suspicious in appearance is not sufficient by itself to prove mala fide. There must be something more concrete. The respondent has also relied on his personal difficulties. He has stated that he is settled in Mumbai since long, his spouse is working here, his mother is aged, and his child is studying. These are genuine concerns. The Court is not insensitive to such realities. But in law



personal hardship cannot by itself invalidate a transfer which is otherwise within service rules. Every transfer causes some difficulty. If such hardship is treated as a ground to stop transfer in all cases, then the very concept of transfer in service law will fail. The correct test is whether the employer has acted within the contract and for a legitimate administrative reason. In the present case when the material of the petitioner is seen it indicates that there is some genuine operational reason for posting the respondent at Bhopal. Therefore, at least at this stage the case of the petitioner appears to be stronger.

**20.** The respondent has placed strong reliance on the earlier award of the Labour Court and has argued that once the termination was set aside, he must be taken back on the same post at Mumbai itself. At first look this submission appears reasonable. But when examined more closely it does not fully answer the legal position. The award directed reinstatement with continuity of service and back wages. This means the respondent was to be restored to service as if the termination had not taken place. However, the award does not say that the respondent must forever remain posted at the same place. It does not take away the normal service conditions which were already accepted by him at the time of appointment. One of those conditions clearly allowed transfer anywhere in India. That part of the contract still continues.

**21.** Reinstatement cannot be understood in a inflexible manner. It only puts the employee back into employment. It does not restrict the employer in such a way that no administrative decision can be taken thereafter. The employer is still entitled to organize



its work decide where an employee is needed and post him accordingly so long as it is done in a fair manner. In the present case the petitioner has shown that the IT work has been centralized at Bhopal and that there is no real requirement at Mumbai. If that position is correct even prima facie, then sending the respondent to Bhopal cannot be called disobedience of the award. The award has been complied with by taking him back in service and paying back wages. What remains is only a matter of posting. That falls within the administrative domain of the employer.

**22.** When the order of the Industrial Court is seen in this background, it appears that the Court has treated the transfer itself as if it is an unfair labour practice at the very beginning. This approach is not correct at the stage of interim relief. At that stage, the Court is required to act with caution. It must first see whether there is a strong prima facie case. Then it must examine where the balance of convenience lies. It must also consider whether any irreparable loss will be caused if relief is not granted. All these factors have to be weighed together. Here the finding of unfair labour practice has been assumed at the interim stage without sufficient material. The allegation of mala fide made by the respondent is serious, but it is not backed by clear evidence at this stage. On the other hand, the petitioner has given a business related reason for the transfer. When such explanation is available the Court must give it due weight. Further, the balance of convenience also does not favour the respondent. If the petitioner has in fact shifted its IT operations to Bhopal, then keeping the



respondent at Mumbai without any substantial work would not serve any purpose. It will only continue a situation where salary is paid without corresponding work.

**23.** The respondent has pointed out difficulty in shifting to Bhopal. That is understandable. But in law inconvenience is not equal to irreparable injury. Irreparable injury means a harm which cannot be compensated. Here the respondent's service is continuing. His salary is not stopped. His seniority is not taken away. His other service benefits are also not shown to be affected. Only the place of work is changed. Therefore, it cannot be said that he will suffer such damage which cannot be compensated later. If ultimately he succeeds in the complaint appropriate orders can always be passed. At this stage such injury is not made out.

**24.** There is one more aspect which also deserves mention. The conduct of the petitioner does not appear to be abrupt. The transfer order was issued openly. Thereafter, further letters were sent asking the respondent to join at Bhopal. The petitioner also informed him about transfer related benefits like joining time and travelling expenses. These are normal features of a genuine transfer. If the intention was only to trouble the respondent or to force him out such formalities may not have been followed in this manner. Of course intention cannot be decided only from such factors. But conduct gives some indication. In the present case, the conduct of the petitioner appears to be in line with a regular administrative decision.



25. The judgments cited by both sides only restate settled legal principles. It is well accepted that transfer is an incident of service. Courts normally do not interfere with transfer orders unless there is clear mala fide, violation of statutory provision, or proof that the order is passed for an improper purpose. At the same time, the Court is also aware that transfer power should not be misused. If it is used as a tool of punishment or harassment, the Court can step in. Therefore, each case must be examined on its own facts. In the present case the respondent has not been able to cross the required level to show that the transfer is illegal or colourable. The petitioner has placed a more convincing explanation.

26. Taking an overall view of the matter, this Court finds that the respondent has not established a strong prima facie case for staying the transfer. The balance of convenience is also not in his favour. No irreparable loss, in the strict sense of law, is shown. The Industrial Court has granted a relief which goes beyond the requirement at the interim stage. By staying the transfer and directing posting at Mumbai, it has practically taken away the employer's right to decide posting without sufficient material. Such an approach cannot be sustained. Therefore, the impugned order is liable to be set aside.

27. In view of the foregoing discussion and reasons recorded hereinabove, the following order is passed:

- (i) The writ petition is allowed;
- (ii) The impugned order dated 24 September 2025 passed by the Industrial Court, Mumbai in Complaint (ULP) No.42



of 2025, granting interim relief in favour of the respondent, is quashed and set aside;

(iii) The interim application filed by the respondent before the Industrial Court stands rejected;

(iv) It is clarified that the observations made in this judgment are prima facie in nature and confined only to the adjudication of the issue of interim relief. The Industrial Court shall decide the main complaint on its own merits, in accordance with law, without being influenced by any observations made herein;

(v) The respondent is directed to comply with the transfer order dated 26 December 2024 and report at the transferred place of posting within a period of four weeks from today;

(vi) Rule is made absolute in the aforesaid terms. No order as to costs.

**(AMIT BORKAR, J.)**