

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.2522 OF 2008

The Chairman, Indian Oil
Corporation Ltd. and Others

Appellant(s)

Versus

Indian Oil Reserved Categories and
Minorities Employees Association

Respondent(s)

O R D E R

Heard Mr. A. Mariarputham, learned senior counsel for the appellants, Mr. Shivaji M. Jadhav, learned counsel for the respondent Nos.1 to 3 and Mr. K. Radhakrishnan, learned senior counsel for the respondent Nos.4 to 6.

In this appeal, by special leave, the assail is to the order dated 14th September, 2006, passed by the High Court of Judicature at Bombay in W.P. No.376 of 2005. The respondent No.1, Indian Oil Reserved Categories & Minorities Employees Association, knocked at the doors of the High Court under Article 226 of the Constitution of India, challenging the Circular No.3 of 2001 dated 15th January, 2001, especially Clause 4 of the Circular. Clause 4 of the aforesaid Circular reads as follows:

"Workmen who desire to be considered for promotion should be willing to go out of

Mumbai and accept posting to any field location. A written undertaking to this effect is to be given in the application."

It was contended before the High Court that such an undertaking would come within the concept of eligibility or a condition precedent for consideration of promotion. The High Court after hearing the learned counsel for the parties, has held thus:

"We have noted down the declaration made before us by the petitioner union that it is not against the transfer of the workmen who are promoted to A Grade Officer and by noting down this declaration, we dispose of the petition with the direction to respondents to consider candidature of workmen in Grade-VI for promotion to A Grade Officer without demanding undertaking but at the same time, it's right to transfer such A Grade Officer is no way affected by deletion of condition of undertaking. This order is confined only to respondent Nos.4 to 8."

Having heard learned counsel for the parties, we are of the considered opinion that it is well settled in law that on promotion being given, the employer has the absolute right to transfer an employee to any place where post is available in the interest of exigencies of service. The insistence on undertaking is just an expression of willingness to be transferred. Such a willingness is not required in law, as the employer has a right to transfer. Needless to emphasise, if an employee, who is promoted does not join the promotional post to which he is posted, it will

amount to, unless otherwise accepted by employer on certain considerations, forgoing the prospects of promotion to that grade for some time. It will depend upon the rule position. To elaborate, the incumbent will forfeit the right of promotion for certain reasonable length of time and that has to be fixed by the employer.

With the aforesaid clarification in the order of the High Court, the appeal stands disposed of. There shall be no order as to costs.

.....J.
(Dipak Misra)

.....J.
(Adarsh Kumar Goel)

New Delhi;
February 12, 2015.

ITEM NO.102

COURT NO.6

SECTION XV

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No.2522/2008

CHAIRMAN, INDIAN OIL CORPN. LTD. & ORS.

Appellant(s)

VERSUS

INDIAN OIL R.C. & M. EMPLOYEES ASSN. & ORS

Respondent(s)

Date : 12/02/2015 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DIPAK MISRA
HON'BLE MR. JUSTICE ADARSH KUMAR GOEL

For Appellant(s) Mr. A. Mariarputham, Sr. Adv.
Mr. V.N. Koura, Adv.
Mrs. Paramjeet benepal, Adv.
Ms. Aruna Mathur, Adv.
Mr. Yusuf Khan, Adv.
Mr. K. Vijay Kumar, Adv.
for M/s Arputham Aruna & Co.

For Respondent(s) Mr. K. Radhakrishnan, Sr. Adv.
Ms. Sunita Rani Singh, Adv.
Mr. B.K. Prasad, Adv.

Mr. Shivaji M. Jadhav, Adv.

Mr. P. Parmeswaran, AOR

UPON hearing the counsel the Court made the following
O R D E R

The appeal is disposed of in terms of the signed
order.

(Chetan Kumar)
Court Master

(H.S. Parasher)
Court Master

(Signed order is placed on the file)