

GAHC010186962023



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : I.A.(Civil)/2609/2023

THE BANK OF BARODA AND 3 ORS
HAVING ITS HEAD OFFICE AT BARODA BHAVAN, RC DUTT ROAD,
ALKAPURI, BARODA- 390007, GUJRAT AND IS REPRESENTED BY ITS
CHAIRMAN.

2: THE BANK OF BARODA
ZONAL OFFICE
KOLKATA ZONE
BARODA TOWER

GN38/2
SECTOR-V
SALT LAKE
KOLKATA- 700091

AND IS REPRESENTED BY ITS GENERAL MANAGER.

3: THE BANK OF BARODA
REGIONAL OFFICE
G.S. ROAD
GUWAHATI
781005

KAMRUP(M)
ASSAM
REPRESENTED BY THE ASSISTANT GENERAL MANAGER.

4: THE ASSISTANT GENERAL MANAGER
THE BANK OF BARODA
REGIONAL OFFICE
G.S. ROAD
GUWAHATI
781005

KAMRUP(M)
ASSAM

VERSUS

DEBOPRIYO DUTTA AND ANR
SON OF LATE DEBOBRATA DUTTA, RESIDENT OF HIRANMOYEE KUTIR,
HOUSE NO. 8, SONALI SARANI, ANANDANAGAR, GUWAHATI- 781005,
KAMRUP(M), ASSAM.

2:DIPANKAR DEBBARMA
SON OF SRI RABINDRA KISHORE DEBBARMA

THAKURPALLI ROAD
KRISHNANAGAR

AGARTALA
TRIPURA- 799001

Advocate for the Petitioner : MR B P BORAH

Advocate for the Respondent :

Linked Case : WP(C)/4328/2023

DEBOPRIYO DUTTA AND ANR
SON OF LATE DEBOBRATA DUTTA

RESIDENT OF HIRANMOYEE KUTIR

HOUSE NO. 8
SONALI SARANI

ANANDANAGAR
GUWAHATI- 781005

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ASSAM.

Advocate for : MR D DEKA
Advocate for : SC

BANK OF BARODA appearing for THE BANK OF BARODA AND 3 ORS

**BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM**

ORDER

Date : 18-12-2023

Heard Mr. P.K. Goswami, learned Sr. counsel appearing for the applicant. Also heard Mr. D. Deka, learned counsel appearing for the opposite parties/ writ petitioners.

This I.A. has been filed with a prayer to vacate the interim order dated 31-07-2023 passed by the learned Single Judge in W.P.(C) No. 4328/2023 directing the respondents to maintain *status quo* as regards the transfer order dated 27-07-2023 issued by the General Manager, Kolkata Zonal Office of Bank of Baroda pertaining to both the writ petitions. It appears from the materials on record that the writ petitioner No. 1, viz. Sri Debopriyo Dutta was posted as MM Level-3 officer at the Fancy Bazar Branch of the Bank of Baroda and the petitioner No. 2, viz. Sri Dipankar Debbarma was posted at the Agartala Branch of the Bank, also as a MM Level-3 officer. By issuing two separate transfer orders both dated 19-07-2023, the petitioner No. 1 has been transferred from the Fancy Bazar Branch and posted at Burdawan Region (West Bengal) whereas, the petitioner No. 2 has been transferred from the Agartala Branch of the Bank and also posted at Burdwan. The grounds for transfer in case of both the writ petitioners have been cited as "longest stay". Assailing the aforesaid orders of transfer, the two writ petitioners had joined together and approached this Court by filing W.P.(C) No. 4328/2023 wherein, the learned Single Judge had passed interim order dated 31-07-2023, as noted above.

In support of the stay vacating application, Mr. Goswami, learned Sr. counsel for the applicants has argued that there is sufficient and reasonable ground for the authorities to transfer the petitioners since they have stayed for long years in the same place of posting. Contending that regional transfer is permissible as per Bank's policy, Mr. Goswami submits that there is no justifiable ground for staying the transfer orders passed by the authorities. The applicant's counsel has also questioned the maintainability of the writ petition by contending that the two transfer orders having been issued in respect of two different employees and under two different circumstances, giving rise to two separate cause of actions, they could not have approached this Court by filing a composite petition, more so, when the grounds on which the transfer orders are being assailed are distinct and different.

Responding to the above, Mr. Deka, learned counsel for the applicants submits that on the request made by the writ petitioners, the Head Office of the Bank had earlier granted waiver to both the writ petitioners in respect of "Inter Zonal Transfer" but within 40 days of such exemption, the orders of "Inter Zonal Transfer" in respect of the petitioners have been issued. It is also the submission of Mr. Deka that both the writ petitioners are facing personal difficulties, as a result of which, they are not in a position to move out from their respective places of posting. The learned counsel submits, it is on such count they have submitted representation before the authorities after the impugned order of transfer were issued. However, the same were rejected without considering the genuine difficulties faced by the petitioners. Mr. Deka, however, submits in his usual fairness, that a composite writ petition, jointly filed by the two petitioners may not be

technically maintainable in the facts of the case.

It is settled law that transfer is an incidence of service. Therefore, the jurisdiction of the writ court to interfere with transfer orders is very limited. Ordinarily, the writ court would not interfere with an order of transfers unless the same is found to have been issued with malafide intent or in violation of the statutory norms or the professed policies of the organization. In the present case, there is nothing to show that the transfer orders impugned in the writ petition have been issued in contravention of any of the above conditions. It may be correct that the petitioners are facing some difficulties in their personal lives which may make it hard for them to comply with the order of transfer. However, whether such hardship is sufficient to modify/ cancel the order of transfer is a matter which would exclusively lie within the domain of the employer and the Court would be reluctant to enter into that aspect of the matter.

At this stage, Mr. Goswami submits that if the petitioners submit fresh representations highlighting their personal difficulties, the authorities would consider the same in a time bound manner before taking any further steps for implementing the impugned transfer orders.

In view of the above and having regards to the peculiar facts and circumstances of the case, with the consent of the learned counsel for both the sides, this I.A. as well as the connected writ petition being W.P.(C) No. 4328/2023, are being disposed of by granting 10 days time to both the writ petitioners to submit fresh individual representations before the Zonal Office of the Bank at Kolkata, West Bengal to be routed through the concerned Regional Office(s), expressing the difficulties faced by them in

complying with the transfer orders, by mentioning all relevant facts along with supporting documents, if any.

On receipt of such representations, the same be considered by the authorities on merit and be disposed of by a reasoned order. Until such time, the aforesaid exercise is carried out and completed, the impugned orders both dated 19-07-2023 shall not be given effect to.

With the above observation, the I.A. as well as the connected writ petition stand disposed of.

JUDGE

GS

Comparing Assistant