

Court No. - 2

Case :- SPECIAL APPEAL No. - 88 of 2024

Appellant :- Kavita Giri

Respondent :- Union Of India Thru. Deptt. Of Financial Services,
Ministry Of Finance, New Delhi And Others

Counsel for Appellant :- Asit Srivastava

Counsel for Respondent :- A.S.G.I.,Anand Kumar Singh

Hon'ble Rajan Roy,J.

Hon'ble Om Prakash Shukla,J.

- (1) *Vakalatnama* filed today by Shri Anand Kumar Singh, learned counsel on behalf of respondent Nos.2 to 6 as well as memo of appearance filed by Shri Krishna Lal Yadav, learned counsel on behalf of respondent No.1 are taken on record.
- (2) Heard Shri Anil Kumar Tiwari, learned Senior Advocate assisted by Shri Asit Srivastava, learned counsel for the appellant, Shri Krishana Lal Yadav, learned counsel for the respondent No.1 and Shri Sanjay Bhasin, learned Senior Advocate assisted by Shri Anand Kumar Singh, learned counsel for the respondents No.2 to 6.
- (3) By means of this appeal, a challenge has been raised by the appellant-petitioner, who is an employee of Bank of Baroda to the judgment dated 19.04.2024 passed in Writ-A No.2511 of 2024.

- (4) The challenge before the writ Court was to an order passed by the concerned opposite parties rejecting the representation of the appellant against her transfer from Kanpur to Vadodara. In fact, the case at hand has a chequered history, therefore, it is necessary to narrate the facts in brief.
- (5) What comes out from record is that the petitioner-appellant was appointed as a Probationary Clerk in erstwhile Vijaya Bank on 27.12.2008 which was subsequently merged or taken over by the Bank of Baroda and was posted at Lucknow centre which was her hometown. She was promoted to the officers cadre in JNG/S-1 on 30.03.2012 and continued to remain posted at Lucknow centre till 09.07.2013. Thereafter on her own request, she was transferred inter region from Lucknow to Kanpur on 10.07.2013 and remained posted at Kanpur till 2020. On 12.03.2020, she made a request for her inter region transfer from Kanpur Metro Region to Unnao which is in close vicinity of Kanpur and was part of Raebareli Region. This request was considered favourably and she was posted at Unnao, Shahganj Branch on 15.07.2020. Meanwhile in October, 2020 after reorganization of regions/zones, Unnao District was considered part of Kanpur Dehat Region. Within the next few months again, she requested for temporary transfer to Kanpur Metro Region and she was accommodated at Kanpur City on 10.03.2021. Subsequently, her temporary transfer to Kanpur

Metro Region was regularized w.e.f. 23.05.2022, meaning thereby, she effectively returned to Kanpur Center on 10.03.2021 and continues there. Eversince then she remained posted in the Lucknow zone for more than eleven years in the Officers' Cadre, therefore, while considering inter-zonal transfers on the criteria of longest stay as per Bank's transfer policy for Officers dated 31.12.2020, she was found to be liable to be transferred and accordingly, she was relived from her present assignment on 17.06.2023 with an advise to report on Head Officer, Vadodara. Instead of joining at Vadodara, she submitted an application seeking fifteen days leave on medical grounds. Thereafter, she challenged the order dated 19.06.2023 before the High Court by means of Writ-A No.4679 of 2023 and also challenging the consequential reliving order but the writ Court dismissed the said writ petition on merits vide order dated 21.06.2023. Aggrieved by the said dismissal of the writ petition, the petitioner preferred a Special Appeal bearing No.347 of 2023 which was allowed on 13.07.2023, with certain observations, to revisit the transfer of the petitioner in light of the policy specially the provision contained in Clause 8.9.1 of the transfer policy dated 31.12.2020 and the observations made therein.

- (6) On a consideration of the said judgment and the representation in this regard submitted by the petitioner, another order was

passed on 11.09.2023. The said order is on record. We have gone through the said order, it gives extensive reasons for transfer of the petitioner from Kanpur to Vadodara. *Inter alia* apart from the facts as already noticed hereinabove, the order mentions about her stay for more than eleven years near Lucknow and Kanpur and, therefore, it has been opined that the contention that she has not been allowed to remain in Kanpur for a period of three years and Bank has breached the Clause 8.9.5 of Transfer Policy dated 31.12.2020, for Officers is not correct and misconceived. Moreover, in the said order reliance has been placed on Clause 8.9.5 of the Transfer Policy dated 31.12.2020, to state that the same cannot be read in isolation and has to be read in conjunction with clause 8.9.4 which clearly provides protection for three years involving change of transfer. Further reference has been made to Regulation 47 of the Bank of Baroda Officers Service Regulation, 1979, according to which, every officer is liable for transfer to any office or branch of the Bank to any place in India. It is also mentioned that there are several other female officers who had fallen due for inter-zonal transfer on the basis of criteria of long stay and were facing similar issues pertaining to medical condition of parents and family as was alleged by the petitioner, however, they have been transferred to other zones as per the policy and only cases who are eligible as per Clause 5.4 of

Transfer Policy dated 31.12.2020 have been given exemption whereas the case of the petitioner does not fall under the said clause on the basis of the Bank's doctor opinion. It has also been stated that being a public sector bank, the Bank of Baroda is governed by the policy and guidelines issued/adopted by Department of Financial Services, Ministry of Finance, Government of India and Transfer Policy dated 31.12.2020 which has been approved by its code. The Bank is an autonomous body and, therefore, it has a certain free play in the joints in this regard. The Government of India granted economy to all public sector banks where Board of Directors can frame and review the policies. The earlier Transfer Policy dated 08.06.2018 was reviewed and fresh policy was framed which was issued on 31.12.2020. Ultimately, the conclusion has been drawn that there is no indefeasible right for an officer to remain posted in a particular region and zone indefinitely and that the appellant herein has remained posted near and around Lucknow/Kanpur for more than eleven years, evading an exception in her case, that too, without there being any basis for it in the transfer policy would be discriminatory and would result injustice to other female officers who are similarly situated and have been transferred.

- (7) However, this order dated 11.09.2023 was again put to challenge by the appellant by means of a Writ-A No.7948 of

2023 which was disposed of on 18.10.2023 in the following terms :-

"Heard learned counsel for the petitioner and Shri Sanjay Bhasin, learned Senior Advocate, assisted by Shri Anand Kumar Singh and Shri Syed Aftab Ahmad, learned counsels appearing for the respondents no. 2 to 5.

Under challenge is the order dated 11.09.2023, a copy of which is annexure 1 to the petition whereby the claim of the petitioner for cancellation of her transfer order from Lucknow to Vadodara has been rejected.

Perusal of the order impugned would indicate that the respondents have categorically indicated that invariably all the transfers of the petitioner have been made on her request which incidentally has not been denied by the petitioner while filing the petition.

At the very outset, Shri Sanjay Bhasin, learned Senior Advocate appearing for the respondents with his usual fairness states that the petitioner may submit a fresh representation with regard to her grievance to the respondent no. 5 who may be directed to consider the grievance of the petitioner sympathetically.

Considering the aforesaid submission of Shri Sanjay Bhasin, learned counsel for the respondents, the writ petition is disposed of leaving it open to the petitioner to submit a fresh comprehensive representation for redressal of her grievances to respondent no. 5 within three days from today.

In case such a representation is made alongwith a certified copy of this order, the respondent no. 5 would proceed to decide the same in accordance with law and relevant guidelines dealing with transfer of lady officers sympathetically within a period of 10 days' from the date of receipt of said representation.

The order impugned dated 13.09.2023 would be subject to orders which are passed by the respondent no. 5. "

- (8) As is apparent from bare reading of the order, the writ Court was persuaded to issue a direction for reconsideration of the matter only on account of the magnanimous concession made by learned counsel appearing for the Bank which according to him was given only because a young lawyer was appearing for the petitioner in the said case, otherwise, apparently, the order dated 11.09.2023 was a reasoned order and considering the

subject matter in issue which was transfer, one could hardly point any error therein. Nevertheless, in deference to the order passed by the writ Court on 18.10.2023, the Bank revisited the matter and passed another order on 04.11.2023 which is also on record.

- (9) Now in this regard, the contention of Shri Anil Kumar Tiwari, learned Senior Counsel appearing for the appellant is that the officer of the bank has the audacity to say that the reasons already given in the earlier order dated 11.09.2023 would be read as part of the said order and all the issues have already been dealt with in the earlier order, which according to him, is disrespectful to the order passed on 18.10.2023. With respect we do not accept this contention for the simple reason both the orders by which representation of the appellant has been rejected are well reasoned orders. There are good grounds for transferring the appellant from Kanpur to Vadodara and there is no illegality involved therein. The appellant does not have any indefeasible rights to remain at a particular place or any region as per her choice. The policy is being implemented uniformly and no discrimination has been pointed out. The contention of Shri Tiwari that Vijaya Bank came to be amalgamated in the Bank of Baroda in 2019, therefore, the services rendered by the appellant prior to it at Lucknow or Kanpur, cannot be taken into consideration for the implementation of the transfer policy is

unacceptable. For all practical purposes, she has remained in or near Lucknow or Kanpur for more than eleven years.

- (10) Now this second order dated 04.11.2023 was also put to challenge by the appellant before the writ Court in Writ-A 2511 of 2024 which has been dismissed on 19.04.2024.
- (11) We have perused the judgment of the writ Court and we do not find any error on facts or in law for interference in an intra-Court appeal specially as, in a matter of transfer, the scope of interference under Article 226 of Constitution of India and consequently, in an intra-Court appeal, is very limited.
- (12) At this Stage, Shri Anil Tiwari, learned Senior Counsel appearing for the appellant submitted that if this Court is not inclined to interfere in the matter then the appellant has no other option but to apply for voluntary retirement, in fact, she had made a prayer before the writ Court itself. If it so, then it is always open for the appellant to make such prayer before the concerned authority of the bank which can be considered as per rules. But this plea does not persuade us to interfere in the matter. It is high time the litigation in this regard came to an end and was given a quietus.

- (13) The special appeal is **dismissed** accordingly.

[Om Prakash Shukla, J.] [Rajan Roy, J.]

Order Date :- 1.5.2024/Shubhankar