

Party Name : SOVA MIAH Vs THE STATE OF TRIPURA & ORS

---

THE HONBLE MR. JUSTICE S.TALAPATRA

---

Heard Mr. D. Bhattacharji, learned counsel appearing for the petitioner as well as Ms. A.S. Lodh, learned Addl. Govt. Advocate appearing for the state.

Mr. Bhattacharji, learned counsel appearing for the petitioner has submitted that by the order dated 19.02.2015, Annexure-6 to the writ petition, Md. Sova Miah, who is U.D. Clerk working under the Directorate of Animal Resources Development, has been transferred from his place of posting at Sonamura to Kumarghat. Mr. Bhattacharji, learned counsel, has referred two representations filed by the petitioner's wife, namely Mst. Hosenara Begam on 25.02.2015 to the Director of Animal Resource Development Department and the Hon'ble Minister of Animal Resources Development Department.

The Director of Animal Resources Development, the respondent No.2, by the order dated 03.07.2015, Annexure-9 to the writ petition, has categorically held that no modification or stay of the transfer order in respect of the petitioner can be afforded.

Now, by filing this petition, the petitioner has thrown challenge against the said transfer order on the ground that her wife Mst. Hosenara Begam suffers 85% of disability, which is evident from the Certificate for Handicapped Person, Annexure-5 to the writ petition.

According to Mr. Bhattacharji, learned counsel, unless the petitioner is posted at Sonamura, it would be very difficult to take care of his wife or to extend aid and help for her pursuit of life.

From the other side, Ms. A.S. Lodh, learned Addl. Govt. Advocate has emphatically raised objection by stating that the petitioner is not permitted by law to challenge the order of transfer on such ground. The order of transfer can only be cancelled on two grounds. If the transfer order is issued mala fide or that order is issued in breach of definite provisions of law. In this case, none of the grounds is available to the petitioner.

What has surprised the most is that the petitioner has approached this court for quashing the transfer order, even without making any representation to the competent authority by laying the grounds for compassionate consideration in respect of the said transfer order.

Hence this court is of the view that the challenge does not fall within the jurisdictional competence of this court for intervening the impugned transfer order. However, the petitioner is granted liberty to approach the competent authority, the respondent No.2 herein, laying down all the relevant facts for consideration of the difficulty of the petitioner with compassion. The petitioner may, alongwith the representation, furnish the other necessary materials. Such representation shall have to be filed by the petitioner within 7(seven) days from today and the respondent No.2 shall dispose of such representation, if any, after due compassionate consideration as early as possible, but by any rate not beyond 15 (fifteen) days from the date of receipt of such representation.

Till then, the respondent No.2 shall not compel the petitioner to join the new place of posting, if in the meanwhile the order of transfer has not been given effect to.

Accordingly, this petition stands disposed of.

A copy of this order be furnished to Ms. A.S. Lodh, learned Addl. Govt. Advocate for onward transmission.