

Party Name : BHABOTOSH ROY Vs THE STATE OF TRIPURA & ANR

THE HONBLE MR. JUSTICE S.TALAPATRA

Heard Mr. C.S. Sinha, learned counsel appearing for the petitioner as well as Mr. S. Chakraborty, learned Addl. G.A. appearing for the respondents.

For disposal of this writ petition, no counter affidavit is required in view of the well settled position of law as enunciated by the apex court in **Shilpi Bose and others vs. State of Bihar and others**, reported in **1991 Supp(2) SCC 659**.

The Court has a very limited scope to interfere the transfer order and that to when it would be apparent the exercise of the transfer has been visited by *mala-fide* or illegality.

It is not in dispute that the petitioner was transferred from the office of the Scientific Officer, Department of Science, Technology & Environment Department, Agartala, West Tripura to the Office of the Scientific Officer, Department of Science, Technology & Environment Department, Dhalai by the order dated 23.02.2015, Annexure-P/1 to the writ petition. The petitioner approached this Court earlier challenging the said transfer order by filing a writ petition being W.P.(C) No.163 of 2015 which was disposed by the order dated 06.05.2015 directing the respondents to consider the representation that was submitted by the petitioner. The petitioner had no knowledge that the said representation was disposed before filing of the writ petition.

Mr. Sinha, learned counsel appearing for the petitioner has submitted that even the transferring authority did not send the communication dated 03.06.2015 to the known address of the petitioner. Finally, the petitioner had to seek disclosure of the said communication dated 03.06.2015 under Section 6 of the RTI Act. From the said communication dated 03.06.2015, what reveals is as under:

"With reference to the presentations submitted to the Department for stay order of the order No.4(20)/DSTE/ESTT/Pt-II/1223-32 dated 23.02.2015, it is to inform you that you were transferred to your new station of posting after a tenure of nearly 20 years in Agartala. Further, you have already joined the new place of posting as has your reliever in Agartala.

It is also pertinent to mention that your new head quarter is not much further from Agartala. The transfer has been done in public interest in accordance with public policy and taking into consideration the holistic view of circumstances.

In view of the above, the representation stands disposed of. Your case for transfer back to Agartala would be considered in due course."

It has transpired from the said communication dated 03.06.2015 that in compliance of the order dated 23.02.2015, the petitioner has already joined his new place of posting.

However, having regard to the representation, it has been assured that he would be transferred back to Agartala in the course of time.

Mr. Sinha, learned counsel has submitted that the petitioner being employed in the category of the Group-D employees, it would be hardly possible for him to run two establishments. Mr. Sinha, learned counsel has referred the decision of the apex court in **B. Varadha Rao vs. State of Karnataka and others**, reported in **(1986) 4 SCC 131**, where the apex court has categorically observed that while transferring the Group-C & D employees, the employer shall always consider about the dislocation and hardship of the family as the employee would face for the said transfer.

Mr. Sinha, learned counsel clearly indicates that that aspect of the matter was not considered while disposing the representation of the petitioner by the communication dated 03.06.2015, part of Annexure-4 to the writ petition.

Being alive of the limited jurisdiction, this Court is of the view that it is the Government's own policy to accommodate the Group-D employees, as far as practicable, in his/her home district so that the Group-D employees does not suffer much adversely for their transfer. From the communication dated 03.06.2015 it transpires that, that aspect of the matter was not considered.

Having observed thus, the petitioner is granted liberty to file a fresh representation to the competent authority i.e. to the Scientific Officer, Department of Science, Technology & Environment Department, Agartala, West Tripura or any other superior authority so that they could appreciate that aspect of the matter. Since the petitioner had already joined in his new place of posting, there is no question of interfering the impugned transfer order dated 23.02.2015. If such representation is filed by the petitioner, the competent authority in the Science, Technology & Environment Department, Agartala, West Tripura shall consider the same with a view to alleviate the hardship or that the petitioner does not suffer unnecessarily for such transfer for longer time inasmuch as the petitioner is borne in the lowest strata in the hierarchy.

With this observation and direction, this writ petition stands disposed of.

There shall be no order as to costs.

A copy of this order be furnished to Mr. S. Chakraborty, learned Addl. G.A. for doing his needful.