

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.623 of 2016

=====

1. Vijendra Kumar S/o Lt. Ramesh Kumar Resident of village - Saidpur, P.O.
Saidpur, P.S. Gopalganj, Distt. - Bhagalpur

.... Appellant/s

Versus

1. The Union of India, through the Secretary, Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training), Central Secretariat, New Delhi
2. The Chief General Manager, State Bank of India, Local Head Office, Gandhi Maidan, Patna
3. The Deputy General Manager, C.D.O., Local Head Office, Gandhi Maidan, Patna

.... Respondent/s

=====

Appearance :

For the Appellant/s : Mr. Durgesh Kumar Singh, Advocate

For the Respondent/s :

=====

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 05-05-2017

Delay of 4 days in filing the appeal is condoned. I.A.

No.3116 of 2016 is allowed.

Seeking exception to an order dated 26.2.2016 in C.W.J.C. No.2264 of 2016, this appeal has been filed under Clause 10 of the Letters Patent.

Petitioner has been promoted by the State Bank of India from Scale 3 to Scale 4. On such promotion he has been transferred out of the circle in question and posted in Bhopal circle.

Inter alia contending that due to certain personal



inconvenience on account of ailment of his wife, he is unable to carry out the order of transfer on promotion and seeking his posting at a place nearer to the place where his wife is staying and working as a Lecturer in a Government service and further contending that as per the policy, the husband and wife should be adjusted and posted either at the same place or adjacent to each other, the writ petition was filed.

The writ Court found that the petitioner's wife is not an employee of the State Bank of India. She is working in the State Government and the policy cannot be enforced by a *mandamus*. Finding the grievance of the petitioner to be with regard to an administrative order of transfer beyond the judicial purview of a writ Court under Article 226 of the Constitution, the writ petition has been dismissed.

In our considered view, in doing so, the learned Writ Court has not committed any error. The only grievance of the appellant in the matter of carrying out the transfer order is his personal inconvenience and violation of the transfer guidelines. The transfer guidelines are not statutory in nature and that cannot be enforced in accordance with law. In the case of Union of India vs. S.L. Abbas, (1993) 4 SCC 357, principle of law laid down is that transfer is an administrative function and can be interfered with by a



court of law only if statutory rules or regulations are found to be established or *mala fides* proved. As none of these ingredients is available in the present matter, it would be for the appellant to represent to the authorities of the Bank, ventilate the personal grievance and it would be for the authorities of the Bank to consider and evaluate the same in the backdrop of administrative policy.

With the aforesaid observations and liberty to the appellant, finding no indulgence to be made in the matter, this appeal is disposed of.

(Rajendra Menon, CJ)

(Sudhir Singh, J)

K.C.jha/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	11.5.2017
Transmission Date	N/A

