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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 5673/2017**

DEVRAJ MURMU

..... Petitioner

Through: **Mr. S.C. Soren, Adv.**

versus

CMD VIJAYA BANK

..... Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

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12.07.2017

1. The challenge in the writ petition is to the order dated 22nd May, 2017, whereby the petitioner has been transferred from Delhi to Bangalore. Learned counsel for the petitioner would make two submissions, first one being that the transfer is contrary to the policy in vogue in the respondent / Bank inasmuch as the petitioner could not have been posted out before he completed 5 years of continuous service in Delhi. He would rely upon the transfer policy for the officers / employees of the Bank at page 62 of the paper book, the relevant clause being at page 66, which I reproduce as under:

“b) *Ordinarily, vacancies in North / North-East will be filled by transfer of officers in the following order:*

i. *Officers directly recruited under generalist category will be normally posted to North / North-East, depending upon availability of vacancies in the North / North-East. However, Bank may post them to Southern States, if there is need. Further, directly recruited specialist category officers will be*

posted depending upon the Bank's needs.

- ii. *Officers who have not completed their North / North-East tenure.*
- iii. *Officers promoted from clerical cadre to JMG Scale-I. However, if there is requirement / exigency in South, they may be retained in South for one tenure. Further, in the event of necessity to transfer some of the promotees of a batch to North/North-East, the selection shall be made from promotes from surplus state/s in the home-state, based on the age, i.e., the older in age will go first. If there is no surplus in any of the Southern states, the selection of officers for transfer to North / North-East, shall be on the basis of the age of the promote officer from the entire Southern States, i.e., the older in age will go first, to meet the requirement in the North / North-East.*
- iv. *Officers promoted to MMG Scale-II except those who have earlier completed minimum of 5 years of continuous service in North / 3 years in North-East / Disturbed areas.*
- v. *Officers on promotion to MMG Scale-III except those who have earlier completed 10 years of service in North / 7 years in North-East/Disturbed area.*

NOTE:

- a) *Those officers in JMG Scale-I & MMG Scale-II already serving in North or North-East/Disturbed area, on promotion to MMG Scale-II/MMG Scale-III are required to extend their stay at such places until completion of 5/3 years, as the case may be. However, in the case of such officers serving in North-East, they have the option to opt for South / place of their choice in which event, they will be liable for transfer to North again, on completion of one tenure in South / place of their choice.*
- b) *Further, an officer on promotion to MMG Scale-II & MMG Scale-III and liable for transfer to North / North-East, who has not completed one tenure of 3 years on transfer from North/North-East/Inter-State in the present place of posting, will not normally be transferred out of*

that place, subject to the condition that the promotee officer shall give an irrevocable letter of undertaking to the Bank, to accept the transfer to North/North-East on completion of 3 years of acting service at that place where he was working at the time of promotion, irrespective of his left over service in the Bank.”

2. Suffice to state that the said policy relates to filling up the vacancies in North / North-East. It is not the case of the petitioner that he is being transferred to North / North-East/Disturbed areas. He has been transferred to Bangalore in the Southern part of the Country. Therefore, the said provision of the policy has no applicability. So, the plea of the ld. Counsel, that the petitioner cannot be posted out before 5 years is liable to be rejected.

3. The second submission made by learned counsel for the petitioner is because of ill health of the mother of the petitioner the transfer order needs to be recalled. It is averred in the writ petition that the mother of the petitioner is diabetic and suffers from hypertension which requires the monthly check-up from the Dr. Ram Manohar Lohia Hospital, New Delhi. Suffice to state, the petitioner having been posted to Bangalore, where sufficient medical facilities are available, the same cannot be a ground to get the transfer order stalled. It is also a conceded position that the petitioner is holding a post having All India Transfer Liability.

4. Learned counsel for the petitioner has relied upon a judgment of this Court in the case of ***Capt. Poonam Dubey v. Union of India & Ors.*** reported in 2003 (1) All India Services Law Journal, Page 97 in support of his contention. I have gone through the judgment. In the said case, the facts are that the petitioner therein was posted to Silchar Assam, whereas her husband was residing in Delhi. It was also noted by the Court in the said

Petition, that she has two minor children, one was infant of four months. Noting those facts, this Court had directed the respondents therein to formulate a policy to avoid harassment where officer is having young children. Suffice to state, the facts of the said case are different from the facts as existing in the present case.

I do not see any merit in the petition. The petition is dismissed.

CM. No. 23719/2017

Dismissed as infructuous.

V. KAMESWAR RAO, J

JULY 12, 2017/jg