HIGH COURT OF TRIPURA
AGARTALA

W.P. (C) No.663/2020

Dr. Bithika Choudhury

…..Petitioner(s)

Versus

State of Tripura and others

……Respondent(s)

For Petitioner(s) : Mr. T.D. Majumder, Advocate.

For Respondent(s) : Mr. Debalay Bhattacharjee, GA.

HON'BLE THE CHIEF JUSTICE MR. AKIL KURESHI

Order

08/10/2020.

The petitioner has challenged the order of transfer dated 20.09.2020 under which she is transferred from her present posting at Subhas Nagar H.S. School, Sadar, West Tripura to Salema Col. H.S. School, Kachuchara, Salema, Kamalpur.

Learned counsel for the petitioner, Mr. T.D. Majumder submitted that the petitioner is subjected to frequent transfers. She has been posted in her present posting only two years back. She is at the verge of retirement and lastly, that she is an office bearer of a recognized employees' association and her transfer could not have been ordered without following the Government policy contained in the O.M. dated 28.02.1994 under

which it is provided that in case of a transfer of an office bearer of a recognized employees' association, the same must be done with the concurrence of the concerned Minister.

Learned Government Advocate, Mr. Debalay Bhattacharjee, appearing for the Government on advance copy submitted that the transfer and posting is merely at a distance about 90 kilometers from the present place. He stated under instructions that the transfer of the petitioner has been ordered after concurrence and clearance by the concerned Minister.

It is well settled through series of Judgments of Supreme Court that in matters of transfer, the Court would not interfere unless the transfer order is shown to be *mala fide* or is opposed to the statutory provisions. Reference in this respect can be made to the decision of Supreme Court in case of ***Mrs. Shilpi Bose and others vs. State of Bihar and others***, reported in ***AIR 1991 SC 532***. In case of ***State of Punjab and others vs. Joginder Singh Dhatt***, reported in ***AIR 1993 SC 2486***, it was held that it is entirely for the employer to decide when, where and at what point an employee is to be transferred.

It is equally well settled that the transfer guidelines do not confer legally justifiable right. Reference in this respect can be made to the decision of Supreme Court in case of ***Union of India and others vs. S.L. Abbas***, reported in ***AIR 1993 SC 2444***.

In the present case, the petitioner holds a transferable post. The transfer liability is across the State. I do not find any reason to interfere, particularly when it is stated by the Government Advocate that her transfer was with the approval of the concerned Minister.

In the result, petition is dismissed. Pending application(s), if any, also stands disposed of.

(AKIL KURESHI), CJ

HIGH COURT OF TRIPURA

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