

14.12.2021
Item No. 8
Crt.No.11
b.r.

MAT 357 of 2021
with
IA No. CAN 1 of 2021
With
CAN 2 of 2021`

Smt. Ritu Kumari
Vs.
The Union of India & Ors.
(Via video conference)

Mr. Ujjal Ray
Mr. Arpa Chakraborty
..... for the appellant.

Mr. Narayan Debnath
Mr. Ayan Kumar Borah
Mr. Abhishek Choudhury
Ms. Bishalaxmi Ghosh
Ms. Preetkamal Chawla
.....For the respondents.

Party/parties is/are represented in the order of
their name/names as printed above in the cause title.

Under challenge in this appeal is the order dated
8th of February, 2021 in WPA No. 9949 of 2020.

The prayer in the Writ Petition reads as follows:

- “ i) A writ in the nature of Mandamus
commanding the respondent no.05 to Set
Aside the impugned Transfer Order dated
07.12.2019;
- ii) A Writ in the nature of Mandamus directing
respondents to Consider Prayer of the
petitioner for Transfer to the Patna Region
considering her Health Condition, Minor
Daughters and Spouse Transfer Grounds;

iii) *A writ in the nature of certiorari by directing the respondent authorities to produce all record relating to the instant Writ Petition for the purpose of proper adjudication by the Hon'ble Court and certify the same to be true before this Hon'ble Court so that conscionable justice may be administered."*

The Hon'ble Single Bench was pleased to reject the prayer of the appellant/the writ petitioner, *inter alia*, recording that the Bank has submitted that there is no vacancy available to accommodate the writ petitioner on transfer in the manner the writ petitioner wants to be accommodated. By the previous order dated 6th of December, 2021 in this appeal, this Bench was pleased to grant an opportunity to learned Counsel for the Bank to revert to this Court with instructions as to whether on an equitable consideration the appellant could be located for the time being at a convenient place suitable to fulfilment of her family duties without treating the same to be in the nature of a precedent.

Today, learned Counsel for the Respondents/the Bank, submits that following the order of the Hon'ble Single Bench dated the 8th of February, 2021 (*supra*), the appellant/the writ petitioner applied for sabbatical leave on 23rd February, 2021 and has been granted sabbatical leave for two years effective from 25th of February, 2021 to 24th of February, 2023.

Learned Counsel for the Bank points out that in view of the sabbatical leave already granted to the appellant, on her applying for such leave, the direction upon the Bank to locate a convenient vacancy being equitable to the present family condition of the appellant may be no longer required.

Learned Counsel for the Bank also points out that it was incumbent upon the appellant to make a full and fair disclosure in her pleadings, which has not been done, of the fact that as she is enjoying sabbatical leave and for the present the search for a vacancy may be dropped.

Mr. Ray, learned Counsel appearing for the appellant with Mr. Chakraborty, learned Advocate, submits that sabbatical leave was *per force* taken in the light of certain extenuating circumstances surrounding a charge of gender discrimination at work-place brought by the appellant against a few of her senior colleagues.

Having heard the parties and considering the materials placed, this Court finds the following:-

- A)** That the prayers in the writ petition purely relate to transfer;
- B)** That the Hon'ble Single Bench was therefore pleased to confine itself to the materials connected to such transfer;
- C)** That on the merits of the issue of transfer the Hon'ble Single Bench

decided against the writ petitioner/the appellant;

- D)** That the appellant therefore arrived before this Appellate Court on the issue only whether the Hon'ble Single Bench was correct in refusing the appellant/the writ petitioner the relief on transfer;
- E)** That the direction of this Court dated the 6th of December, 2021 upon the respondents/the Bank requiring the locating of a place convenient to the appellant for the time being stands subsumed by the sabbatical leave prayed for and already granted to the appellant for two years;
- F)** In view of the sabbatical leave already granted to the appellant by the Bank, the requirement of locating a convenient place of transfer suitable to the claimed family condition of the appellant, does not arise for the present;
- G)** The direction of this Court dated the 6th of December, 2021 (*supra*) would not have been so passed, had this Court been apprised through pleadings that she has

been already granted sabbatical leave for two years on her prayer;

On merits also, on the limited issue of transfer of an employee to a place as required by the employer for the ends of service, as upheld by the Hon'ble Single Bench cannot be faulted. Upon expiry of the sabbatical period, it would be open to the appellant to take steps, if and so advisable in law.

Accordingly, in the view of this Court, this appeal need not be detained further.

MAT 357 of 2021 along with the connected applications being **IA No. CAN 1 of 2021** and **CAN 2 of 2021** stand thus **dismissed**.

All parties shall act in terms of a copy of the order downloaded from the official website of this Court.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all necessary formalities.

(Krishna Rao, J.)

(Subrata Talukdar, J.)