

23.06.2021
Court No. 19
Item no.12
CP

WPA No. 10714 of 2021

Pradip Kumar Chakraborty alias Chakrabarti
vs.
The Union of India & ors.

(via video conference)

Mr. Tarique Quasimuddin
Mr. Debnath Ganguly
Mr. Aranya Saha

....for the petitioner.

Mr. Alok Kumar Banerjee
Mr. Tapan Bhanja

....for the Union of India.

The petitioner has challenged an order of transfer dated December 2, 2020.

Mr. Banerjee, learned advocate appearing on behalf of the Union of India, submits that the writ petition has become infructuous as the transfer order was issued on December 2, 2020 and the petitioner had also joined the transferred post on December 26, 2020 itself. He further submits that the transfer was made from Bowbazar to Baruipur Head Post Office. According to Mr. Banerjee, the said transfer could not have caused any inconvenience to the petitioner as the distance from the residence of the petitioner to Baruipur is negotiable.

The learned advocate appearing for the petitioner denies the contention of Mr. Banerjee and

submits that the transfer has caused serious hardship to the petitioner in view of the physical incapacity of the petitioner. It is submitted that the petitioner is 45% handicapped. Records also reveal that admittedly the petitioner suffers from 45% disability. The petitioner relies on the Office Memorandum dated March 31, 2014 issued by the Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training, Government of India, from which it appears that certain concessions and privileges have been given to persons with disabilities. He relies on Clause H of the said memorandum which is quoted below:

“H. Preference in transfer/posting

As far as possible, the persons with disabilities may be exempted from the rotational transfer policy/transfer and be allowed to continue in the same job, where they would have achieved the desired performance. Further, preference in place of posting at the time of transfer/promotion may be given to the persons with disability subject to the administrative constraints.

The practice of considering choice of place of posting in case of persons with disabilities may be continued. To the extent feasible, they may be retained in the same job, where their services could be optimally utilised.

3. Every Ministry/Department in consultation with the Office of the Chief Commissioner for Persons with Disabilities would arrange for training of the Liaison Officer on ‘Disability Equality and Etiquettes’.”

Relying on Clause H, the petitioner submits that he ought not to have been transferred to Baruipur, but should have been retained at the Bowbazar Post Office or at least posted nearer to his residence,

namely Barasat H.O. which is closer to his residence. The guidelines have just been violated by the respondents according to the petitioner. The petitioner has also annexed photographs to show that the quarters allotted to him at Baruipur are inhabitable and in a dilapidated condition. As such, he has to undertake a long journey everyday with such disability during the pandemic situation. The photographs of the quarters annexed to the writ petition, if are genuine, really show the shocking state of affairs. The guidelines also support the contention of the petitioner. The transfer in this case seems to be a routine one.

Having considered the rival contentions of the parties, as disputed questions of fact are involved, this writ petition is disposed of with a direction upon the petitioner to file a representation ventilating all his grievances with regard to non-compliance of the guidelines dated March 31, 2014, inhabitable condition of the quarters and harassment that he may be facing on account of such transfer. Such representation shall be filed before the Chief Postmaster General, India Post, West Bengal Circle, Yogayog Bhawan, Kolkata – 700012, the respondent no. 3 herein. The respondent no. 3 shall consider and dispose of the said representation/application of the petitioner expeditiously upon hearing the petitioner as

also any other interested party and pass a reasoned order within a period of six weeks from the date of receipt of such representation.

This court has not gone into the merits of the claims and counter-claims of the parties and the representation of the petitioner shall be disposed of in accordance with rules and guidelines and submissions of the petitioner. The reasoned order should be communicated to all concerned.

As no affidavits are called for, allegations against the official are deemed to have been denied.

With the above observations, this writ petition is disposed of.

There shall be no order as to costs.

All parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)