

33 12.1.2021

gd/ssd

WPST 92 of 2020
(Through Video Conference)

Sri Sajal Biswas
Vs.
The State of West Bengal and Ors.

Mr. Bidyut Kumar Halder, Advocate
..for the Petitioner. Present in Court.

M/s Joytosh Majumder, Present in virtual mode.
Raja Saha and
Biswabrata Basu Mullick, Advocates
..for the State. Present in Court.

The order dated 5.10.2020 passed in OA 278 of 2020 by the West Bengal Administrative Tribunal (for short 'the Tribunal') has been challenged in the present petition.

The petitioner, who is working as Medical Officer in the Health Department, had filed the application before the Tribunal challenging his order of transfer dated July 28, 2020, vide which he was transferred from Maslandapur BPHC, North 24 Parganas to BMOH, Jasodanga RH, Alipurduar. The Tribunal dismissed the application observing that prior to the passing of the impugned order that the petitioner had been working at his previous place of posting for about three and half years.

The argument raised by learned counsel for the

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petitioner while referring to clause 7 of the instructions issued by the Government dated August 10, 1990, is that regarding transfer of posting of medical officers of the West Bengal Health Service is that normally no medical officer shall be transferred in the last three years of service unless separate administrative ground exists. He further submitted that the petitioner was appointed as medical officer on December 11, 2011, till July, 2020 he has been transferred five times, hence instructions were not followed.

After hearing the learned counsel for the petitioner, we do not find any merit in the present petition. Firstly, the clause 7 of the circular dated August 10, 1990, which is sought to be relied upon by the petitioner is not applicable in the case in hand for the reason that the petitioner is not at the fag end of his career as he has number of years of service to his credit before he retires on attaining the age of superannuation. Otherwise, also transfer policies issued by the State are not justiciable in court and can not be enforced as a matter of right unless there are allegations of malafide or there are other glaring reasons made out for interference by the court. Further, before the impugned order of transfer was passed on July 28, 2020 the petitioner had already

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served at that place of posting for more than three and half years. The argument that the petitioner has been transferred five times in the last nine years is merely to be noticed and rejected as no such grievance was ever raised by the petitioner when he was earlier transferred from different places, hence, no benefit accrues to him in challenging the order of transfer in the case in hand.

While concurring with the opinion expressed by the Tribunal, we do not find any reason to interfere with the order of the Tribunal and the writ petition is, accordingly, dismissed.

(Rajesh Bindal, J.)

(Aniruddha Roy, J.)

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