

08.02.2021
S/L No. 18
Court No.13
s.biswas

WPA 9949 of 2020

Ritu Kumari
Vs.
Union of India & Ors.

(Through Video Conference)

Mr. Kallol Bose
Mr. Indradeep Pal
Mrs. Sougata Pal (Das)

... ... for the petitioner

Mr. Saptansu Basu, Sr. Adv.
Mr. Narayan Debnath
Ms. Abhipriya Das

... ... for the respondents

The matter is taken up again on the third day today, when detailed submissions have been made by both the parties.

The brief facts of the case are that the petitioner was originally posted at Kolkata and was already married. She thereafter went on medical leave to Patna where her husband is posted and other relatives and in-laws are also available. On account of advance stage of second pregnancy, she submitted that she could not join Kolkata despite being transferred and posted here.

By an order dated 20th November, 2019 in W.P. No. 21189(W) of 2019 passed by a Co-ordinate Bench of this Court, the bank was directed to consider the petitioner's representation. The representation was duly considered by order dated 7th December, 2019 which is assailed in the instant writ application.

Counsel for the petitioner argued that the bank has erred in passing the impugned order. He submits that while admitting the petitioner's medical condition and her natural desire to live with her husband the bank has inhumanly refused to accommodate her in Patna. It is also disputed that the bank has had no vacancy in Patna since after the order of Co-ordinate Bench.

Reliance is also placed on a circular of the Ministry of Finance dated 8th August, 2014 issued to all the Public Sector Banks which prescribes that cases like the petitioner should be accommodated as far as possible to ensure placement/transfer of married female employee, on her request, at a place where her husband is stationed or as near as possible to that place or vice versa. A policy in this regard was directed to be framed by Banks.

The principal grouse of the petitioner is against the posting at Kolkata. The parties admit that the petitioner's second pregnancy is over and she has a child therefrom.

The only ground to seek transfer to Patna is to care for her child.

There are large number of lady employees in banks and public sector institutions and in Government sectors across the country. The Central Government, State Government and public sector organizations ensure special facilities to lady employees in the event of pregnancy or child care or similar requirements. Hence leave in this regard is available to the petitioner even at Kolkata.

The circular dated 8th August, 2014 referred to by the counsel is clearly a request for accommodation to a lady employee to be considered, “as far as possible” and therefore cannot be a binding directive on the bank. It is irrelevant for the purpose of instant writ petition, whether any policy has been framed by the bank in this regard.

The bank has already submitted that there are no vacancies available to accommodate the petitioner which would amount to inter zonal transfer.

For the reasons stated above, this Court cannot find any fault with the impugned order dated 20th November, 2019. The petitioner is bound to join her place of posting and is entitled to avail any facilities that the bank has in this regard in accordance with applicable Rules.

That the bank shall bear in mind the physical condition and personal needs of its employees while taking any decision on the petitioner’s service.

With above observation and direction the instant writ petition being WPA 9949 of 2020 is disposed of.

There shall be no order as to costs.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties on usual undertaking.

(Rajasekhar Mantha, J.)