

RAJESH
VASANT
CHITTEWAN

WRIT PETITION NO.11479 OF 2019

1/6

request basis. Then it seems that at the time of effecting Ambernath transfer in the year 2014, the Petitioner submitted an application requesting authorities not to effect her transfer on the ground of her ailments. It seems that her application was considered sympathetically and she was transferred to the nearer place vide an order dated 27 May 2014. Then there are certain other documents placed on record showing that the Petitioner reiterated the grounds of ailments time and again as and when transfers were proposed to be effected. One document is placed on record dated 1 June 2014 issued by private medical practitioner to show that the Petitioner is suffering from hypertension and hypothyroidism. Then again the Petitioner submitted an application in the year 2014, expressing her inability to join the place of third posting raising grounds of her family difficulty and ailments, namely, high blood pressure, thyroid and cholesterol. It is stated in the application that a copy which is placed at Pg-31 (Exh. 'G Colly') that the Petitioner is unable to join the place, where the posting is effected and she is proceeding on medical leave. Now there are repeated applications raising identical grounds, firstly, for some initial period, the Petitioner worked in remote area of Shahpur Taluka and secondly, the Petitioner is suffering from ailments, namely, high blood pressure, thyroid and cholesterol. There are at least nine to ten applications submitted to the authorities practically in every year raising only ground of ill health that the Petitioner is suffering from high blood pressure and thyroid. There is another document placed on record at Pg.52 (Exh.'O'), which reveals that during her period of service, the

Petitioner was subjected to departmental enquiry. Be that as it may. In year 2017, again the Petitioner was transferred to Wada project in Palghar District. The application was submitted before the authorities that due to her ill health, she was unable to join the station where the transfer was effected and then sought permission to join station on 17 January 2017.

3 The perusal of the documents placed on record further show that as per the latest procedure, the Petitioner was called upon to submit her representation for absorption/transfer. The Petitioner submitted representation to the authorities and it is submitted in the representation that the Petitioner be accommodated/absorbed in any of the projects in Thane District. Now in this representation, the Petitioner submits that she is suffering from severe pain in her knee and she is advised to undergone a surgery. There is no such document supporting the opinion about surgery placed on record. The Petitioner was ultimately transferred vide order dated 18 May 2018, a copy of the same is placed on record at Pg.101 (Exh 'A-8'), the opening part of the order refers no detailed observance of the recent procedure set out before effecting transfer, family and seeking feedback from the employees about their willingness. It then refers to procedure of counseling. Thus, the authorities completed this exercise, which seems to be per-requisite and effected transfer of the Petitioner from Beat Parali 4, Project Wada-1, Zilla Parishad, Palghar to Beat Tulai, Project Murgbad 2, Zilla Parishad Thane. The Petitioner, immediately within one week of the transfer order,

submitted an application seeking the medical leave and a copy of the application placed on record at Pg.103, states that the Petitioner expressed her inability to join the transferred place and prayed for medical leave and then submitted that the medical certificate would be produced before the authorities at the time of her joining. Interestingly, the Petitioner availed the medical leave till 31 December 2018 and joined the transferred station on 1 January 2019. Then there is document placed on record at Pg.109, under the caption of 'Medical Certificate' showing that the Petitioner was treated as outpatient for the period of 22 May 2018 to 31 December 2018 for the ailments, namely, blood pressure, thyroid, typhoid, malaria and hepatitis. After joining the station on 1 January 2019, immediately, the Petitioner submitted an application on 10 January 2019, that she be permitted to proceed on medical leave from 2 January 2019 to 19 January 2019 and then prayed for leave on the ground of earned leave. Interestingly enough, this leave was again extended till 31 January 2019 and then again by application dated 4 February 2019, the Petitioner sought for post facto sanction for extension of leave till 4 February 2019. Then on 18 May 2019, the Petitioner made request for her transfer.

4 Considering the above referred documents, the only conclusion, which can be drawn is that the Petitioner is not at all interested to join her post of transfer and she was successfully avoiding for months together to join the place on the ground of her ailments. At the cost of the repetition, we state that the certificates

placed on record, show that the Petitioner was suffering from ailments, like high blood pressure, thyroid, typhoid, malaria and hepatitis and was treated as outpatient. There was no certificate placed on record. Now none of these certificates makes out the effect as to the Petitioner required the continuous bed rest or she is unable to make any movement. Ms. Vaishali Jagdale, learned Counsel appearing for the Petitioner invited our attention to document placed on record at Pg.53 to submit that another employee, who has similar circumstance with the Petitioner, was retained at particular place and it is stated in the application that discriminatory treatment is given to the Petitioner. Now this is only part of the representation, there are no such grounds incorporated, either in the petition nor the Petitioner made any attempt to join other employee/s against who she alleges a preferential treatment. It cannot be in dispute that the transfer is an essential part of service and the authorities are certainly at liberty to effect the transfer of employees for the administrative grounds or for the administrative exigencies. Impugned order refers to administrative ground, which is in the nature of formation of a new Palghar District by division of erstwhile Thane District. In the present petition, Petitioner raising the ground of ill health avoided to join her place of posting for six months. The ailments suffered by the Petitioner are not of such nature, which would make the Petitioner immovable or immobilize for a long period of six months or the Petitioner requires bed rest for the ailments and not only this, the Petitioner after joining post again proceeded on medical leave for four months. The Petitioner availed

the medical leave initially and then time to time sought extensions of the leave. At the cost of the repetition, we have to state that the opening part of the order impugned, a detailed reference is made to show that the authorities have followed procedures and gave opportunity to the Petitioner to submit her representation. The process of counseling was also undertaken and by completing these procedures, the transfer is effected.

5 Considering all these aspects, we are unable to persuade ourselves to cause indulgence in the present petition. In our opinion, the petition is devoid of merits and as such, deserves to be dismissed at the threshold. The Writ Petition is accordingly dismissed. No order as to costs.

(S. M. MODAK, J.)

(PRASANNA B. VARALE, J.)