

4
29.08.2022
sb
Ct 23

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 7811 of 2022

Sm. Debashmita Dutta
Vs.
State Bank of India & Ors.

Mr. Dilip Kumar Samanta,
Ms. Biswapriya Samanta
.... For the petitioner.

Mr. Subrata Kumar Sinha
...For the respondent nos. 1 to 5.

The petitioner is an employee of State Bank of India (in short, SBI). The petitioner approached this Court by filing a writ petition, being WPA 9916 of 2021, ventilating her grievance against her transfer from Jagannath Chawk Branch of SBI to Panchkhuri Branch. Both the Branches i.e. Jagannath Chawk and Panchkhuri are in the district of Paschim Medinipore. The petitioner made a representation prior to filing of the said writ petition to consider her case for being posted in a convenient Branch in Medinipore town. The said writ petition was disposed of by an order dated 8th November, 2021 by the following direction:-

“In this facts and circumstances, I disposed of the writ petition along with the connected application by directing the respondent no.3 to consider and dispose of the prayer for transfer made by the petitioner on 17th February, 2021 (appearing at page 88 of the writ petition)

within a period of eight weeks from date by a reasoned order by affording the petitioner a reasonable opportunity to represent her case following the prevalent COVID-19 protocol”.

The Assistant General Manager (HR), SBI, has disposed of the petitioner’s representation by an order dated 30th December, 2021, which was communicated to the petitioner by a letter dated 1st January, 2022. The petitioner has, inter alia, challenged the said order in this writ petition and has also prayed for a mandatory order of transfer to Medinipore Branch.

Admittedly, the petitioner’s service is a transferable one. The petitioner cannot complain of being transferred from one Branch to other unless she is able to show that by such transfer she has been victimized. The order of the Assistant General Manager, (HR) dated 30th December, 2021 clearly states the factors taken into consideration for which the petitioner was transferred from Jagannath Chawk Branch to Panchkhuri Branch. The petitioner has also been given a personal hearing on 27th December, 2021, after adjourning the initial date of hearing fixed on 15th December, 2021 at the request of the petitioner. However, the more concerning part is the petitioner’s conduct. After being transferred from Jagannath Chawk Branch on 16th November, 2018, the petitioner joined Panchkhuri Branch on 3rd December, 2018. The petitioner

worked thereat till 16th January, 2019 and did not report from 17th January, 2019. On the contrary the petitioner gave a representation the sum and substance whereof is that the petitioner will not join at Panchkhuri Branch till she was not transferred therefrom. The said representation is in SBI's report at page 11 thereof. The petitioner ultimately went to join at Panchkhuri Branch according her own version on 10th December, 2020 and ultimately joined there after passing of the order dated 19th January, 2021 passed in WPA 11464 of 2020. The petitioner, therefor, did not work between 17th January, 2019 and 10th December, 2020 which has been suppressed in this writ petition. These facts have surfaced from SBI's report.

After considering the averments in the writ petition, the order dated 30th December, 2021, the report filed on behalf of the SBI and the exception thereto taken by the petitioner, I do not find any reason to interfere with the order dated 30th December, 2021. The petitioner has not been able to establish any ground of victimization. Moreover, I also do not find any reason to direct SBI to transfer the petitioner from Panchkhuri Branch to any Branch in Medinipore town. That apart and in any event, the Courts are loath to interfere with the transfer orders unless it palpably demonstrates victimization of the employee concerned as transfer order is in the

administrative domain for smooth administration of an organization which cannot be monitored by Court. Interference to transfer orders apart from the limited scope amounts to transgression into the domain left to the executive. I also do not find any violation of principle of natural justice, in the instant case. The petitioner also cannot for mere asking be posted at a Branch of her choice and will not attend office unless the transfer is made. The judgment reported in 2008 (10) SCC 115 [C Jacob vs. Director of Geology and Mining and Another] cited by the petitioner also has no manner of application in this case. On the contrary filing of repeated writ petition until the desired result is achieved is an abuse of process. If these type of prayers are adhered to by the employer then it will lead to an administrative doldrums when all members and staff will seek transfer at their own convenient place or places. It cannot also be the basis of a transfer policy to be followed by an organization like SBI. The petitioner can neither ask for a mandatory order of transfer nor can say that she will be on leave till the transfer to her choice place is not made.

The writ petition is devoid of merits and is liable to be dismissed.

Taking into consideration the past conduct of the petitioner in approaching this Court to prevent her transfer or get a transfer of her choice on various pretext,

the writ petition is dismissed with costs awarded at Rs.5000/- to be payable to the High Court Legal Services Authority within 30th September, 2022. The payment of costs will be a precondition for the petitioner from filing any further writ petition before this Court.

(Arindam Mukherjee, J.)