

07.09.2022
Sl. No.30(SL)
srm

W.P.A. No. 13172 of 2021
Jibananda Ghosh
Vs.
The State of West Bengal & ors.

Mr. S. Mandal,
Mr. S.C. Dhara

....for the Petitioner.

Mr. Jaharlal Dey,
Mr. Samim ul Bari

.....for the State-respondents.

Affidavit-of-service is taken on record.

The petitioner prays for transfer from his present place of posting as Secretary of Atharobanki Gram Panchayat, under Canning-II Block, District-South 24-Parganas, to any gram panchayat under the Sonamukhi Block, District-Bankura. The petitioner relies upon a memo of the Additional Secretary to the Government of West Bengal, which states that a uniform transfer policy, which was formulated by the government for employees of gram panchayats and panchayat samities, must be followed and one person should not be posted at a particular place for too long. The petitioner submits that as the petitioner has been in his present place of posting for more than six years, according to the transfer policy he should be transferred to any other gram panchayat under Sonamukhi Block.

This Court is of the view that unless the service rules or the transfer rules governing the services of the petitioner specifically provide that an employee can seek transfer to his chosen place or to a particular place, on certain grounds, the petitioner cannot choose his next place of posting and seek a transfer. Transfer is an incidence of service. Such transfer is governed by the transfer policy and the rules. Unless such policy or the rules permit the petitioner to *suo motu* seek transfer to his preferred place, a mandatory order cannot be passed by this Court.

The petitioner is at liberty to approach the Commissioner, Department of Panchayat and Rural Development, Government of West Bengal with his request. Such request shall be decided strictly in accordance with law within a period of three months from the date of receipt of the petitioner's application. The claim of the petitioner shall be decided independently and strictly as per the transfer policy.

This Court has not gone into the merits of the issue involved in the writ petition.

The writ petition is, thus, disposed of.

There shall be no order as to costs.

Parties are to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)