

30.08. 2022
item No.17
n.b.
ct. no. 23

WPA 18501 of 2022
Ashutosh Bachhar
Vs.
The National Food Laboratory & Ors.

Ms. Priyanka,
.....for the Petitioner
Ms. Manika Roy,
.....for the FSSAI.

The petitioner was appointed as the Technical Assistant in National Food Authority, under Ministry of Health and Family Welfare, Government of India with effect from August 22, 1989. The petitioner was posted at National Food Laboratory (in short “NFL”), Kolkata since inception and is to retire with effect from August 31, 2024. The petitioner has been served with an office order dated June 21, 2022 by which the petitioner has been transferred from NFL, Kolkata, to National Food Laboratory Extension Care, Raxaul, Bihar. The petitioner has challenged this transfer order inter alia on certain grounds which includes the health of his aged father age and health related issues of his wife. The petitioner also says that he has only two years service left and intends to remain in Kolkata, since for last 33 years he has served at NFL, Kolkata without being transferred. The health issue related to the petitioner’s father and wife may be grounds for sympathetic consideration of a

transfer order but cannot be an absolute ground to stop a transfer order. Admittedly the petitioner joined the service in NFL knowing that his job is transferable. The petitioner may not have been transferred for last 33 years that does not mean that the employer of (NFL) cannot transfer the petitioner to any other place. An order of transfer can be interfered with only on a limited scope where it is tainted with patent illegality or victimisation under such transfer order is explicit. In the instant case neither of these grounds have been even prima facie demonstrated. The courts are always loathe in interfering with the transfer order as it is left to the employer being in administrative domain since the employer is free to transfer an employee for administrative convenience. The petitioner has also raised a point of that the transfer is on deputation and there is no post of technical assistant at the transferred place though the same is not pleaded in the writ petition. The respondents have produced an office memorandum dated October 8, 2014 by which the Food Safety and Standard Authorities of India, Ministry of Health and Family Welfare authorized the Central Food Laboratory, Kolkata to transfer on deputation for administrative convenience. So an employee can be transferred even on deputation.

Considering all these aspects, I do not find any substance in the petitioner's claim to set aside the transfer order or to modify the same.

The writ petition therefore, is dismissed.

There will be however, no order as to costs.

Since I have not called for affidavits, allegations made in the writ petition are deemed to have not been admitted.

Urgent Photostat certified copy of this order, if applied for, be given to the parties, upon compliance of necessary formalities.

(Arindam Mukherjee, J.)