

26.09.2022
Ct. no.21
Sl. No.15
Sanjay

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 20495 of 2022

Shyamal Kumar Malik
Vs.
Life Insurance Corporation of India & Ors.

Mr. Arun Kumar Chowdhury
....for the petitioner.

Mr. Avishek Guha,
Ms. Akansha Chopra ...for the respondents.

Affidavit of service filed in Court today be taken
on record.

The petitioner claims to have been discriminated
against on the issue of non-consideration of his
representation for transfer from Jhargram Branch
office under Kharagpur Division to KMDO-I, Kolkata.
The petitioner claims that he has a mentally retarded
son who needs to be treated at the Institute of
Neurosciences, Kolkata.

Mr. Chowdhury, learned counsel appearing for
the petitioner submits that despite the Transfer and
Mobility policy for Class-I officers allowing Transfer of
employees who is a caregiver of disabled child his
representation was not considered. The said Transfer
and Mobility policy was also implemented by an office
circular dated October 22, 2016 of the Life Insurance
Corporation of India. As per the said office circular
an officer who is a caregiver of a disabled child could
be exempted from the routine exercise of
transfer/rotational transfer subject to administrative

constraints. He also submits that the petitioner's representation has been rejected by a cryptic, unreasoned office order dated July 8, 2021 issued by the Senior Divisional Manager, Life Insurance Corporation of India, Kharagpur Divisional Office, Paschim Medinipur/ respondent No. 3.

Mr. Guha, learned counsel appearing for the respondents argues that this is not a routine transfer or administrative transfer and it is promotional transfer. The employee/writ petitioner who was promoted as Class-I Officer had the option of refusing the promotion had he not wanted to be transferred to his present place of posting.

He further relies on an advocate's letter dated June 14, 2022 to support his contention that reasons have been suitably provided to the petitioner for rejection of his representation.

Having considered the rival submissions of the parties and the materials placed on record, this Court is of the view that the impugned office order dated July 8, 2021 is unreasoned and cryptic. Advocate's letter issued on June 14, 2022, almost a year after the unreasoned order cannot substitute the purported reasons, which have not been admittedly provided in the Impugned order by the employer. The impugned order dated July 8, 2021 is hereby quashed and set aside.

The Zonal Manager, Life Insurance Corporation of India, respondent no.4, or any other competent

authority, is directed to consider the representation of the petitioner in the light of the Transfer and Mobility policy and also the office circular dated October 22, 2016. The representation of the petitioner shall be disposed of by a reasoned order upon giving personal hearing to the petitioner within six weeks from date. The reasoned order should be communicated to the petitioner within two weeks thereof.

Since no affidavits have been called for in the instant writ petition all the allegations made therein are deemed not to have been admitted by the respondents.

With the aforesaid directions, the writ petition being **WPA 20495 of 2022** is **disposed of**.

There will be no order as to costs.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Hon'ble Court.

Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance of all necessary formalities.

(Lapita Banerji, J.)