

02.02.2022
Sayandeep
Sl. No. 02
Ct No. 05

WPA 9527 of 2020

Mitra Koley
vs.
State of West Bengal & Ors.

Mr. Sabyasachi Chatterjee
..... for the petitioner
Mr. Jyotosh Majumder
Ms. Tapati Samanta
..... for the respondent Nos. 5 & 6
Mr. Supriya Ranjan Saha
..... for the respondent No. 7.

The petitioner prays for cancellation of an Office Memorandum dated 31st October, 2020, by which the Librarians and Library Assistants of Government-sponsored Public Libraries of Purba Bardhaman District were placed at Bangla Sahayata Kendras (BSKs) with immediate effect. The joining report of the Librarians/Library Assistants mentioned in the Memorandum were directed to be furnished to the District Library Officer and the Librarians/Library Assistants were requested to start BSKs services immediately. The petitioner's name is at serial no. 31 of the Office Memorandum.

The petitioner's posting, as on the date of the Office Memorandum, i.e. 31st October, 2020, is in a Government-sponsored Rural Library at Barsul, Purba Bardhaman. The petitioner's posting as per the impugned Memo is in a BSK library at Akalpoush, Purba Bardhaman.

The grievance of the petitioner, as expressed by learned counsel, is that the petitioner lacks necessary skills and expertise to serve in a BSK. Counsel submits that the petitioner would have to travel in excess of 55 kms to the BSK and that the petitioner's service conditions are governed by the Library Services Department, West Bengal as opposed to the Panchayats & Rural Development Department of the State Government which governs the BSKs. Counsel challenges the impugned Office Memorandum issued by the Library Services Department of the State as being discriminatory and bad in law.

Learned counsel appearing for the Department of Library Services defends the Office Memorandum by referring to a Resolution of the State Finance Department dated 17th June, 2014 which records that the most effective use of manpower is through deployment in Government offices or in similar entities for productive use of their services through imparting training and skills. Counsel also submits, upon instructions, that the duties of the library staff who have been deployed to BSK libraries are essentially supervisory in nature and include taking care of the infrastructure of the BSKs. Counsel also submits that while all other

Librarians and Library Assistants have joined their respective BSKs, the petitioner has not complied with the impugned Office Memorandum and has not joined her place of posting by reason of which the BSK at Akalpoush could not be started within time.

From the submissions of the learned counsel appearing for the parties, it appears that the challenge to the impugned Memorandum is essentially on the ground that the petitioner lacks the specific training and skills required for running a BSK. The other ground is of inconvenience, namely, that the petitioner would have to travel a longer distance from her place of posting as on 31st October, 2020 to the BSK library. Before the merits of the dispute are addressed, the concept of “Bangla Sahayata Kendras” (BSKs), should be explained.

The BSKs were established by a Notification dated 9th June, 2020 by the Panchayats & Rural Development Department of the State Government as service-delivery points for delivering Government services through online mode at the door-step of citizens or at convenient locations. The State Government decided to establish 2744 BSKs at various places with a certain number of personnel and infrastructural arrangements including computers, printer-cum-scanners and internet

connectivity. A Memo dated 22nd July, 2020 records initiation of several steps for making the BSKs operational. One of the steps mentioned include Webel Technology Limited providing necessary manpower for the BSKs as well as providing a supervisor to monitor and support the BSKs. The petitioner's grouse of lacking the required training is addressed by these Notifications. It is evident that the petitioner, or any of the other Librarians/Library Assistants for that matter, will not be required to man the BSKs in terms of providing technical services which will be entirely looked after by WTL. The written instructions handed up on behalf of the Department also records that the petitioner's work is merely to supervise the Data Entry Operators assigned for the BSKs and to take care of the infrastructure of the BSK. The list of duties do not reflect that the petitioner will be required to do the work of the Data Entry Operators or any other work of a technical nature. By a Notification dated 16th October, 2020 from the Office of the Chief Secretary, Government of West Bengal, it was clarified that the BSKs project is founded by the State Government and is a free service for availing of information from Government Departments through online mode.

The second issue of the petitioner having to travel a longer distance stands belied from the impugned Office Memorandum itself which shows that the petitioner's posting as on 31st October, 2020 and the posting at the BSK is in the same District, namely, Purba Bardhaman. This is not a case of transfer of posting but a deployment of manpower for optimal use of resources as stated in the Resolution dated 17th June, 2014 of the State Government. Even if the petitioner treats the placement as a transfer, the petitioner has to establish that the transfer is arbitrary in facts or bad in law. The petitioner has not been able to establish such a case in the writ petition.

With regard to the contention that the Library Services Department of the State cannot regulate the service of the petitioner in respect of the BSK which is under the Panchayats & Rural Development Department, it is relevant to state that the Memorandum of the Library Services Department dated 19th October, 2011 contemplates organising extension activities in close co-operation with the respective Gram Panchayats.

A significant factor which the Court must also take into account is the fact that the petitioner has not joined her proposed place of posting at the

BSK Library at Akalpoush, Purba Bardhaman as per the impugned Office Memorandum dated 31st October, 2020. The only document relied upon for the petitioner's inability to join is a document from a Consultant Homeopathic Physician dated 6th November, 2020 certifying that the petitioner suffers from survival spondylosis. Whatever be the worth of this document, the dictum of the Surpeme Court in *S.C. Saxena vs Union of India; (2006) 9 SCC 583*, that a government servant cannot disobey a transfer order by not reporting at the place of posting, assists the contentions raised by the respondent. In that decision, the Court held that it is the duty of the government servant to first report for work where he is transferred and then make a representation as to what may be his personal problems. The Supreme Court further observed that the tendency of not reporting at the place of posting and indulging in litigation needs to be curbed. The petitioner has not joined the BSK Library despite more than 15 months having passed from the date of the impugned Memorandum. The petitioner has also not been able to make out a case on facts or in law as to how the impugned Memorandum is violative of Article 14 of the Constitution of India or affects the rights of the petitioner in a manner which would warrant the intervention of a Writ Court.

In view of the above reasons, this Court is unable to accept that the writ petitioner has made out a substantial case for orders as prayed for. W.P.A. 9527 of 2020 is accordingly dismissed without any order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the parties on usual undertakings.

(Moushumi Bhattacharya, J.)