

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.06.2022

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.NO.1438 OF 2020
AND
W.M.P.NO.1704 OF 2020

Dr.R.Selvakumar

... Petitioner

.Vs.

1. State Bank of India,
Rep. by its Regional Manager,
Region 3, Erode,
RBO ERODE,
204-205, STATE BANK ROAD,
Erode - 638 001.

2. State Bank of India,
Rep. by its Chief Manager,
Kodumudi ADB-1726
State Bank of India,
6/51, Kodumudi-Kangayam Road,
Kodumudi - 638 151.

... Respondents

PRAYER:- Writ Petition is filed under Article 226 of the Constitution of India, seeking to issue a Writ of Certiorarified Mandamus, calling for the records from the 2nd respondent relating to the communication dated 20.11.2019 bearing reference No.RM/III-11/ read with letter No.RM-III-11-45 dated 08.01.2020 and quash the same as illegal, arbitrary, without jurisdiction and consequently, to direct the Respondents 1 and 2 to continue the Petitioner in Kodumudi branch in compliance with the Transfer Policy dated 23.09.2011 together with all attendant benefits.

For Petitioner : Mr.N.G.R.Prasad
For M/s.Row and Reddy

For R1 : Mr.S.Ravindran
Standing Counsel
For Mr.S.Bazeer Ahamed

For R2 : Ms.C.Yamini

ORDER

This Writ Petition has been filed seeking to issue a Writ of Certiorarified Mandamus, calling for the records from the 2nd respondent relating to the communication dated 20.11.2019, bearing Reference No.RM/III-11/ read with letter No.RM-III-11-45, dated 08.01.2020 and quash the same as illegal, arbitrary and without jurisdiction and consequently, to direct the respondents 1 and 2 to continue the petitioner in Kodumudi Branch in compliance with the Transfer Policy dated 23.09.2011 together with all attendant benefits.

2. According to the petitioner, he has joined as Rural Marketing and Recovery Officer in the respondents/Bank and he was transferred and posted at Kodumudi ADB Branch on 06.06.2019. Thereafter, he was transferred from Kodumudi Branch to Bhavani Sagar Branch within five months. According to him, he has applied leave on 21.11.2019 and 22.11.2019 on medical grounds. Since he did not recover, he had applied for sick leave and he has informed the same to the respondents through e-mail dated 25.11.2019. Thereafter, the impugned transfer order dated 20.11.2019 was served on him along with letter dated 08.01.2020 and the same was received by the petitioner on 16.01.2020. Challenging the same, the petitioner has filed the instant Writ Petition before this Court.

3. The learned counsel appearing for the petitioner submitted that, as per Clause 4.1 of the Transfer Policy dated 23.09.2011, if any transfer, can be only after minimum two years, but in the present case on hand, the petitioner has been transferred within five months. Therefore, the impugned transfer order is illegal, arbitrary and contrary to the Transfer Policy. He further submitted that, as per Para 4.1 of the Transfer Policy dated 23.09.2011, the period of two years had lapsed against his transfer. To that extent, the learned Standing Counsel appearing for the 1st respondent agreed that the period of two years has lapsed. Therefore, the said ground raised by the petitioner cannot be agitated. He further submitted that, the petitioner has produced the relevant records before the respondents/Bank for taking medical leave. The said aspect has not been considered by the respondents.

4. The learned Standing Counsel appearing for the 1st respondent submitted that the apprehension of the petitioner is that the respondents/Bank will proceed with the unauthorised absence and if any representation is made by the petitioner, the same would be considered by the authority concerned in accordance with law.

5. On a perusal of the records, it reveals that as per the Transfer Policy, the respondents/Bank shall not transfer the petitioner within the minimum period of two years. In view of the interim order granted by this Court and the same is pending before this Court, as rightly stated by the parties, the said two years period has now completed, therefore, the said ground is no longer required for adjudication in the writ petition.

6. Insofar as the second contention of the learned counsel for the petitioner that the petitioner has produced the relevant medical records to the respondents/Bank seeking medical leave for his absent period. But the respondents/Bank disputed the said fact. Therefore, in the interest of parties, this Court is inclined to pass orders as follows:-

(i) The petitioner is directed to submit a fresh representation along with medical certificate and other relevant documents before the respondents/Bank, within a period of two weeks from the date of receipt of a copy of this order, seeking medical leave for the period of absent from duty.

(ii) On such representation received by the respondents/Bank, the same shall be considered on merits and in accordance with law and pass appropriate orders by following the rules and guidelines of the State Bank of India, within a period of six weeks thereafter.

7. With the above directions, the Writ Petition stands disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1. The Regional Manager,
State Bank of India,
Region 3, Erode,
RBO ERODE,
204-205, STATE BANK ROAD,
Erode - 638 001.

2. The Chief Manager,
Kodumudi ADB-1726,
State Bank of India,
6/51, Kodumudi-Kangayam Road,
Kodumudi - 638 151.

+1cc to M/s.Row and Reddy, Advocate, S.R.No.33549
+1cc to Mr.S.Bazeer Ahamed, Advocate, S.R.No.33501

W.P.NO.1438 OF 2020

RK(CO)
PBS/18/07/2022