

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8443 of 2022

Nutan Kumari wife of Avinash Chandra Jha, Resident of Village and P.O.-
Baijani, P.S.- Jagdishpur, District- Bhagalpur, presently Resident at Nirmal
Cottage, Behind ITI College, Ward No. 3, Adabari, P.S.- Town Hajipur,
District- Vaishali at Hajipur. Petitioner

Versus

1. The Central Bank of India through its Managing Director cum Chief Executive Officer, Central Bank of India, Chandra Mukhi, Nariman Point, Mumbai, 400021.
2. General Manager (H.R.D.), Central Bank of India, Chandra Mukhi, Nariman Point, Mumbai, 400021.
3. Zonal Head, Central Bank of India, Block- B, 2nd Floor, Maurya Complex, Dak Banglow Road, Patna- 800001.
4. Chief Manager (HRD) and Presiding Officer, Internal Complaint Committee, Central Bank of India, Zonal Office, Block- B, 2nd Floor, Maurya Complex, Dak Banglow Road, Patna- 800001.
5. Regional Manager of Central Bank of India, 1st Floor, Patel Chowk, Opposite- Collectorate, Siwan, Bihar- 841226.
6. Avinash Kumar son of not known, Regional Manager of Central Bank of India, 1st Floor, Patel Chowk, Opposite- Collectorate, Siwan, Bihar- 841226.
7. Alok Kumar, Senior Manager (H.R.D.), son of not known, Central Bank of India, 1st Floor, Patel Chowk, Opposite- Collectorate, Siwan, Bihar- 841226.
8. Branch Manager of Central Bank of India, Mastichak Branch, Siwan Region, District- Saran at Chapra.
9. The State of Bihar through Principal Secretary, Department of Education, Patna.
10. District Program Officer, Planning and Account, Saran cum Presiding Officer Internal Complaint Samitee, Saran at Chapra.

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr.Md. Helal Ahmad, Advocate
For the State	:	Mr.Umesh Dubey,AC to GP-27
For the Bank	:	Mr. Siddharth Harsh, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 19-04-2023 Heard learned counsel for the petitioner and learned
counsel for the Bank.

2. This writ application has been filed seeking to



challenge the order dated 28.04.2022 issued by respondent no. 3 whereby and whereunder the petitioner has been transferred from Branch Manager (MMGS-II) at Branch Office, Mastichak (Siwan Region, Bihar) to inter-zone Ahmedabad Zone, Gujarat with immediate effect.

3. The petitioner challenged her transfer citing the administrative guidelines contained in the transfer policy of the Bank. This Court heard the matter on 29.03.2023 and passed the following order:-

“Heard learned counsel for the petitioner and learned counsel for the Bank.

What has transpired from the submissions and the records are that this petitioner was promoted to scale II and was posted as Branch Manager in the Siwan region of the Patna Zone of the Bank sometimes w.e.f. 17.11.2020. She lodged a complaint of sexual harassment against the respondent no. 6 who happened to be the then Regional Manager of the Bank. This Court has been informed that the Internal Inquiry Committee has found that the allegations were not true but the report of the Internal Inquiry Committee is under challenge before the disciplinary authority. No final decision has yet been taken on that.

Be that as it may, the bone of contention in the present proceeding is an order of transfer of the petitioner from her present place of posting in the Siwan region under Patna Zone to the State of Gujarat under Ahmadabad Zone.

Learned counsel for the petitioner has placed



before this Court the guidelines of the Government of India, Ministry of Finance as contained in Annexure '8' to submit that the husband of the petitioner being posted at Sasaram in the State of Bihar, the authorities of the bank if at all were looking to transfer the petitioner, they were obliged to transfer her either to the place where her husband was posted or in the vicinity thereof. In a recent judgment of this Court in CWJC No.5513/2022 decided on 28.03.2023, this Court has held that the guidelines of the Government of India, Ministry of Finance is required to be followed.

Learned counsel further submits that the order of transfer is malafide inasmuch as the petitioner who is having a three years old child has been thrown out not only from the State of Bihar even before completion of her period of 10 years under one Zone, she has been sent to the State of Gujarat from where it would not be possible for her to take care of her responsibilities.

In order to support the submissions, learned counsel has drawn the attention of this Court towards the guidelines of the Bank providing for a transfer outside the Zone in which an employee is working. It provides for transfer of an employee from one zone to another after completion of 10 years of stay in one zone. It is submitted that in the present case, the petitioner had hardly stayed for about two years, therefore, she could not have been transferred outside the zone.

It is further submitted that even if there were compelling circumstances as is being submitted on behalf of the Bank, the fact that the Regional Manager had recommended for transfer of the



petitioner to a far distant place and it is only because of such uncalled for recommendations from the Regional Manager the petitioner has been sent to a far distant place, that would make the order of transfer malafide.

Learned counsel has drawn the attention of this Court towards the letter written by the Regional Manager as contained in Annexure 'M' to the counter affidavit. It is stated that the Regional Manager not only asked for transfer of the petitioner but also for her suspension and transfer to a far distant place from the present posting. Even as the Regional Manager is not a recommending authority, he specifically wrote "I recommend for the same".

Learned counsel submits that it is the same and one Regional Manager against whom there are allegations of sexual harassment and the matter is still sub-judice.

Learned counsel submits that after her transfer to the Ahmadabad Zone, she has been served with a charge-sheet, a disciplinary proceeding has been initiated but the Assistant General Manager being the disciplinary authority has issued a notice whereunder he has advised the inquiry officer to commence departmental inquiry without any delay. Not only this, the inquiry officer has been directed that the disciplinary inquiry be held on a daily basis preferably through Video Conferencing. He has been further directed to submit his findings specifically on each charge to the disciplinary authority.

Learned counsel submits that the inquiry officer is the Branch Manager presently posted at Branch Office, Chapraunder Siwan Region. The



petitioner is posted under Ahmadabad Zone. She has no choice to participate in the disciplinary proceeding physically. She finds it totally difficult to participate in a disciplinary proceeding through virtual mode as there is no facility or technical assistance to her from the Bank. It is further difficult to understand that in a matter which involves perusal of evidences and cross-examination of witnesses, without there being any rule governing conduct of disciplinary proceeding through Video Conferencing, how a disciplinary proceeding may be conducted through Video Conferencing. Learned counsel submits that all these action of the authorities of the Bank are at least prima-facie indicating that they are in haste and somehow want to punish the petitioner.

Learned counsel for the Bank has opposed this writ application. It is submitted that there are allegations against the petitioner which are serious in nature, therefore, the petitioner has been served with a charge-sheet and a disciplinary proceeding is going on against her. Learned counsel submits that Regional Manager has not made allegations rather he spoke about the allegations against the petitioner.

Learned counsel for the Bank submits that he will file a reply to the Interlocutory Application being I.A. No. 01/2023, copy of which has already been served upon him on 04.03.2023.

Having heard learned counsel for the petitioner and learned counsel for the Bank, at this stage, this Court would make it clear that the court would not be going into the merit of the allegations which are subject to the disciplinary proceeding. This Court would, however, certainly take note of



certain glaring facts which are prima-facie indicating that the authorities of the Bank are acting in haste.

At the first instance, this Court finds that as per their own policy an employee who has completed 10 years of posting under one Zone shall be transferred outside the Zone. In this case, the petitioner has stayed under Patna Zone for hardly two years. No plausible reason seems to be available on the record to show that her transfer outside Zone at this stage was matured. Even if it is assumed for a moment that in the nature of the circumstances where the petitioner had made allegations against the Regional Manager and the Regional Manager had referred to certain allegations against her of some financial indiscipline, her transfer from the present place of posting was required in better administration of the workings of the Bank, this Court is unable to fathom the reasons as to why the petitioner would be sent to such a far distant place, away from her husband and family as also the place where disciplinary proceeding is being conducted.

The fact remains that the government of India, Ministry of Finance guidelines provides for spousal ground for transfer of a female officer of the Bank either to the place of the workings of her husband or in the vicinity. Husband of the petitioner is an employee in the New India Assurance Company Limited, Patna Region and is presently posted at Sasaram. Even if the transfer of the petitioner was required to be done, her transfer from present place to the place of her husband or in the vicinity thereof would have served the purpose. This Court in its writ jurisdiction would not be



taking upon itself to suggest a place of posting but these are the possible views which would have been a reasonable consideration in the mind of the competent authority. To send the petitioner to the State of Gujarat and then to draw a proceeding against her at Siwan and ask the inquiry officer to conduct the disciplinary proceeding on day to day basis through video conferencing is another reason which would compel this Court to take a view that prima-facie the authorities of the Bank are in hurry and the direction of the disciplinary authority may not be in consonance with the principles of natural justice.

Having said so, as this Court has noticed that the petitioner has submitted a representation one after another inform of Annexure '12' to the writ application, this Court directs the competent authority to immediately consider the same in the light of the materials which have been prima-facie indicated hereinabove and take an appropriate and independent view of the matter within a period of two weeks from today. The views expressed hereinabove are prima-facie. The reasoned order of the competent authority be placed on record with a reply of the interlocutory application on behalf of the Bank.

Till Further hearing of this matter, the petitioner shall not be compelled to participate in the disciplinary proceeding through Video Conferencing.

Let this matter be listed under the same heading maintaining it's position on 19th April, 2023."

4. Today, learned counsel for the Bank has informed



that the Bank has considered the representation of the petitioner as contained in Annexure '12' to the writ application and has taken a view whereunder the petitioner has been transferred back to Patna Zone and she has been posted at Muzaffarpur Regional Office. She is presently under suspension.

5. Learned counsel submits that the petitioner has been allowed to participate in the departmental inquiry in physical mode. In this regard, the letter of the disciplinary authority/ Assistant General Manager, Human Capital Management Department of the Bank available at Annexure 'R2' to the reply of the Bank to the interlocutory application filed on behalf of the petitioner is available on the record.

6. Learned counsel for the Bank submits that on perusal of Annexure 'R2', it would appear that the petitioner is being given full opportunity to represent her case and the disciplinary authority has directed the inquiry officer to provide further opportunities to the petitioner for considering her request.

7. At this stage, learned counsel for the petitioner has attempted to raise a number of issues with regard to the manner in which the disciplinary proceeding has been initiated. The emphasis is that this proceeding is a malafide exercise which



has been undertaken by some officers who have developed grudge against the petitioner. Learned counsel for the petitioner has expressed apprehension that the petitioner may not get an impartial adjudication in the disciplinary proceeding. She has filed an interlocutory application seeking to challenge the holding of the departmental inquiry.

8. Having heard learned counsel for the petitioner and the Bank, at this stage, this Court is of the considered opinion that the main grievance of the petitioner for which the writ application was filed has already been addressed. She has been brought back to Patna Zone and now the disciplinary proceeding is being conducted in physical mode. This being the position, introducing a completely new subject by way of amending the writ application would not be permissible. If the petitioner is so advised, she may challenge the disciplinary proceeding or any order passed therein in accordance with law in an appropriate proceeding. All contentions are left open.

9. I.A. No. 1 of 2023 is not entertained.

10. This writ application is disposed of with the aforesaid observations and directions.

(Rajeev Ranjan Prasad, J)

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