

11.01.2023
Sl. No.20(DL)
srm

W.P.A. No. 428 of 2023

Bratati Chatterjee

Vs.

The State of West Bengal & Ors.

Mr. Bhaskar Roy

....for the Petitioner.

Mr. Ansar Mandal,

Mr. Suprabhat Bhattacharya

...for the Respondent Nos.1, 2 & 5.

Affidavit-of-service is taken on record. Despite service, none appears on behalf of the respondent Nos.4 and 6.

The petitioner complained of sexual harassment while serving as a Gram Rojgar Sevak in Egara Gram Panchayat, District-Paschim Bardhaman. The respondent No.6 joined the post of Executive Assistant on January 4, 2022 on transfer from Kajora Gram Panchayat. The petitioner complained before the authority about the sexual harassment by the said respondent. Thereafter, the petitioner was transferred to Amrasota Gram Panchayat in the same capacity.

This writ petition has been filed challenging such transfer order and with a further prayer for consideration of her complaints against the said respondent No.6.

This Court is not inclined to interfere with the transfer order for two reasons. First, as an interim measure under the Sexual Harassment at Workplace (Prevention, Prohibition and Redressal) Act, 2013 the authority can always transfer the complainant and remove the complainant from the unhealthy environment in which she had been allegedly harassed. Secondly, even if such transfer was not as an interim protection, according to the Block Development Officer, Raniganj Development Block, the transfer was for administrative reasons. By the order dated December 15, 2022 two persons were transferred in public interest.

Thus, the Court does not find that such transfer was either *mala fide* or punitive. The petitioner has been removed from the environment where she was allegedly harassed and the law also permits the authority to transfer its employee for administrative convenience. The order of transfer is not interfered with. Transfer is also an incidence of service.

However, the petitioner will be at liberty to approach the Block Development Officer, Raniganj

Development Block for constitution of an Internal Complaints Committee as per law, for adjudication of the issue as per the Sexual Harassment at Workplace (Prevention, Prohibition and Redressal) Act, 2013 with regard to her allegations while discharging her duties as a Gram Rojgar Sevak in the Egara Gram Panchayat (work place). If such approach is made, the committee will be constituted and the consequential steps will follow as per law. This order shall not be construed as an observation of the court on the correctness of the allegations made by the petitioner against the respondent No.6. The matter shall be dealt with independently.

The petitioner will join the transferred post within January 17, 2023.

It is left to the discretion of the authority how they would like to treat the interim period between the date of transfer and the date of joining.

The writ petition is, thus, disposed of.

There shall be no order as to costs.

Parties are to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)