

WPA 4934 of 2023

Palash Patra
Vs.
Damodar Valley Corporation (DVC) & Ors.

Mr. Rajarshi Halder
Mr. Chirantan Sarkar
....for the petitioner

Mr. Subir Pal

...for the respondent/DVC

The petitioner challenges an Office Order of transfer dated December 28, 2022 passed by the Deputy Director (HR). By the said Office Order the petitioner was also promoted from the post of Junior Engineer Group – I (Civil) to the post of Engineering Assistant (Civil).

Mr. Halder, learned Counsel appearing on behalf of the petitioner draws the attention of this Court to the transfer and job rotation policy for the executives of Damodar Valley Corporation (DVC).

He refers to Clause 9 of the said policy in support of his contention that to the extent possible, efforts will be made to ensure that husband and wife, if both are working in DVC/any other government organizations, are accommodated at the same station/project, subject to organizational requirement and vacancies. Such requests/arrangements will be

entertained/permitted only till the children of such employees attain the age of 18. He submits that the daughter of the petitioner is in class VI and his wife is working at a Government school. Therefore, he is covered under Clause 9.

Mr. Pal, learned Counsel appears on behalf of the respondents submits that the petitioner's case has not a case of simpliciter transfer. The petitioner has been transferred on promotion. Under Clause 11 of the policy, the Executives appearing in the interview for promotion will have to submit a written declaration before the interview that they will accept the place of posting as decided by the competent authority. In the event of failure of the employee to submit the above declaration by the time of interview, his/her case will not be considered for promotion.

Considering the rival submissions of the parties and the materials placed on record, this Court finds that the petitioner has been transferred on promotion. He must have given a written declaration before the interview for being considered for promotion. After giving such written declaration now the petitioner cannot be shown any undue sympathy and cannot be allowed to rely on Clause 9 of the policy which in any event relates to normal/administrative/organisational transfer. The petitioner's transfer is on promotion and the petitioner cannot be allowed to approbate and

reprobate. The view of this Court finds support in a judgment of the Apex Court reported in **(2015) 11 SCC 493 (Pradeep Kumar Rai & Ors. vs. Dinesh Kumar Pandey & Ors.)**. The petitioner cannot be allowed to take the benefits of the promotional post and circumvent the rigorous/difficulties of the transfer by the competent authority, for discharging his duties at the promotional post. The attitude of the petitioner is not at all appreciated by this Court. After giving a written declaration that he will be amenable to transfer on promotion now he is seeking to wriggle out of the said declaration. Such a course of action cannot be permitted.

In the light of the discussion above, this Court holds that this writ petition is misconceived.

Accordingly, **WPA 4934 of 2023** is **dismissed**.

Since no affidavits have been directed to be exchanged in the present writ petition, all the allegations contained therein are deemed not to have been admitted by the parties.

All parties to act on a server copy of this order downloaded from the official website of this Court.

Urgent Xerox certified copy of this order, if applied for, be supplied to the parties, subject to compliance with all requisite formalities.

(Lapita Banerji, J)