

10.04.2023

WPST 43 of 2023

Court : 04
Item : 89
Matter : WPST
Status : DO
Bench Id : 266048
Transcriber : NANDY

Sourav Krishna Basu
Vs.
The State of West Bengal & Ors.

Mr. Tulsi Das Roy, Advocate
Mr. Tirthankar Roy, Advocate

.....for the Petitioner

Mr. Tapan Kumar Mukherjee, Learned AGP
Mr. Dipankar Das Gupta, Advocate
Ms. Debdooti Dutta, Advocate

.....for the State

By the impugned order dated February 20, 2023 passed in OA 558 of 2022 the West Bengal Administrative Tribunal disposed of the tribunal application in a cryptic manner. The matter pertains to an order of transfer of the writ-petitioner to Raiganj, Uttar Dinajpur. Subsequently, a representation was made by the writ-petitioner to the competent authority to reconsider the decision of transfer citing medical problems.

Since the said representation was kept under suspended animation, the Tribunal was approached for an order that he may be transferred to any place within the vicinity of Kolkata with the alternative prayer to consider the said representation.

As indicated above, the Tribunal disposed of the said application holding that there is no satisfactory reasons pleaded therein justifying such relief to be extended. It is no doubt true that the employment in a Government organization is ordinarily imbibed within itself the concept of transfer from one place to another which is always regarded as an incident of service. The Government employee cannot have a vested right to stay at a particular place of his choice as it depends upon the higher authorities in better dispensation of justice to post the Government servant to any place within its territory. However, it does

not put any fetter on the part of the Government employee to make a representation inviting the attention of the appropriate authority to reconsider the prayer for transfer. The moment such representation is made, the authority must attend the same and should not keep the same in abeyance for all time to come.

In the instant case, the writ-petitioner has joined the transferred post and made a representation to the appropriate authority so that proper decision can be taken on the attending factors narrated in the said representation. It was not open for the Tribunal to dispose of the proceeding solely on the ground that the service of the petitioner is transferable and, therefore, no relief can be granted.

We, therefore, set aside the order of the Tribunal.

We direct the Additional Director General of Police, Intelligence Branch, West Bengal to reconsider the representation filed by the petitioner and to take appropriate decision on the facts disclosed therein within four weeks from the date of communication of this order.

Since the petitioner has cited a medical ground, we hope and trust, the authority would consider the said representation sympathetically.

With these observations, the writ-petition being **WPST 43 of 2023** is **disposed of**.

(Harish Tandon, J.)

(Prasenjit Biswas, J.)

