

18.05.2023
DL-13 & 14
(PP)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 799 of 2023

Abhishek Sharma
Vs.
Union of India & Ors.

with

WPA 9647 of 2023

Smt. Seema Tiwary
Vs.
Union of India & Ors.

Ms. Aparna Banerjee,
Mr. Anirban Das

...for the petitioners.

Mr. Soumya Majumder,
Mr. Arunabha Sarkar

....for the respondent nos.2 to 6.

Supplementary affidavits filed in Court today
are retained with the records.

WPA 799 of 2023 is taken up together with WPA
9647 of 2023.

In WPA 799 of 2023, the petitioner is the
husband of the petitioner in WPA 9647 of 2023. He
has challenged an office memorandum dated January
5, 2023, whereby he was directed to join the Tea
Board's Regional Office at Jorhat from the Head Office
at Kolkata positively by January 9, 2023. The
petitioner-husband made a representation on
January 5, 2023. The grievance of the petitioner-
husband is that without considering his
representation he was directed to join the transferred

place of posting. The petitioner's wife is also an employee of the Tea Board.

In WPA 9647 of 2023, the petitioner-wife has challenged a transfer order dated March 31, 2023 whereby she was transferred to the Regional Office in Guwahati from the Head Office at Kolkata. The petitioner therein made a representation for cancellation of the said order of transfer.

Ms. Banerjee, learned counsel appearing on behalf of the petitioners in both the matters refers to an office memorandum as well as the Central Civil Services (Joining Time) Rules, 1979 issued by the Department of Personnel & Training, Ministry of Personnel, Public Grievances and Pensions in support of her contention that the petitioner-husband should have been granted at least 12 days' time to join the transferred place of posting. She also refers to a office memorandum dated December 14, 1983 to show that as far as posting in North Eastern Region's offices are concerned, the officers with less than 10 years of service could be posted for 3 years and the officers with more than 10 years of service could be posted for a period of 2 years. She submits that from 2012 till 2018, the petitioners have served in the North Eastern Region offices. She also submits as far as practicable, the petitioners, being husband and wife, should have been posted at the same office.

Mr. Majumder, learned counsel appearing on behalf of the respondent nos. 2 to 5/Tea Board submits that the CCS Rules regarding transfer were not applicable to the employees of Tea Board. The said rules were only applicable to the Central Government employees. He submits that due to the administrative exigency that arose due to vacuum created by deputation of the factory advisor, an officer posted at Jorhat, the petitioner-husband was required to be transferred to the office at Jorhat. Upon consideration of the rules/guidelines requiring posting of the husband and wife as far as practicable at the same office, the petitioner in WPA 9647 of 2023 has been posted at the Guwahati office.

Considering the submissions of the parties and the materials placed on record, this Court directs the petitioner-husband in WPA 799 of 2023 to join the transferred place of posting with immediate effect.

As far as the prayer of the petitioner-wife is concerned in WPA 9647 of 2023, the same may be considered by the appropriate authorities within 4 weeks from date. Till such time the representation of the petitioner-wife is considered, the transfer order dated March 31, 2023 will be kept in abeyance considering the hardship that would be suffered by the petitioner-wife. The fact that the petitioner-husband's mother is ailing and their child is only 6 years old, the Court has passed this order of stay.

The consideration of the petitioner-wife's representation will be made upon giving her a personal hearing and the authorities concerned will make an effort to place/transfer the petitioner-wife to the same place of posting as far as practicable with her husband.

With the directions aforesaid, **WPA 799 of 2023** and **WPA 9647 of 2023** are **disposed of**.

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

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Hon'ble Court.

Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance of all necessary formalities.

(Lapita Banerji, J.)