

Vacation Bench
May 22, 2023
Sl. No.27
Court No.7
AS/s.biswas

WPA 12086 of 2023

Shyama Prasad Das
vs.
The Union of India and others

Mr. Rahul Karmakar
Mr. Sourav Guchhait

... for the petitioner

Mr. Atarup Banerjee
Ms. Amrita Pandey
Mr. Ghanshyam Pandey
Ms. Sneha Singh

... for the respondents

Affidavit of service filed by the petitioner is taken on record.

The petitioner has challenged an order of transfer dated December 1, 2022, being Buvi Letter No. BT-2023. By the said transfer order, the petitioner has been transferred to Daman, directing him to join within the specified date.

Mr. Karmakar, learned Advocate appearing for the petitioner, submits that the petitioner is suffering from various ailments and that adequate facility for the treatment of the ailments of the petitioner is not available at Daman, where he has been transferred.

Mr. Karmakar further submits that the petitioner vide his letter dated April 30, 2023 requested the concerned respondent to amend the transferred station, which has not been acted upon by the respondent authorities.

Mr. Banerjee, learned Advocate representing the respondent authorities, submits that the petitioner cannot have a choice to be transferred at a particular place.

However, Mr. Banerjee, in his usual fairness submits that the petitioner has to attend before the medical board for an assessment as to the alleged ailment, which the petitioner claims to have been suffering for a long period of time.

Mr. Karmakar, upon instruction, submits the petitioner is ready and willing to attend the medical board for his medical examination, if so directed by this court.

It is not in dispute that the date for joining at the transferred post has been extended till May 24, 2023.

Since the petitioner claims that he is suffering from various ailments, which have been specifically indicated in paragraph 7 of his representation dated April 30, 2023, the authorities are to be satisfied as to whether the petitioner is really suffering from such ailments. The authorities have to also consider whether the treatment that is necessary for such alleged ailments is available at the transferred post. In view thereof, this court is inclined to dispose of this writ petition by passing the following directions:

The petitioner is directed to attend before the medical board, which shall examine the petitioner and if necessary, direct tests and investigations to be performed. As suggested by Mr. Banerjee, the petitioner shall report to the Authorised Medical Officer, Indian Coast Guard on 26.5.2023 at about 11 A.M.

After the petitioner reports to the Authorised Medical Officer, Indian Coast Guard, he will be taken to the medical board at Command Hospital (EC), Kolkata at 17/1E, Alipore Road, Alipore Police Line, Alipore, Kolkata-700027, on that date itself for the medical examination of the petitioner.

The petitioner will be at liberty to produce documents, reports and opinions of the doctors who have treated the petitioner, before such medical board.

The medical board, after examination of the petitioner and after conducting tests and investigations, if any required, will give its opinion as to the medical condition of the petitioner and forward the same to the petitioner as well as to the Officer-in-Charge, Bureau of Naviks, Military Camping Ground, respondent no. 6 herein.

Respondent no. 6 shall thereupon consider the request for amendment of transfer after taking into consideration the medical opinion of the medical

board and communicate the same to the petitioner immediately thereafter.

The entire exercise shall be completed on or before June 12, 2023. In view of the aforesaid directions of this Court, the transfer order dated 1st December, 2023 shall be kept in abeyance till June 20, 2023.

The supplementary affidavit filed by the petitioner is taken on record and the copy of which has been served upon Mr. Banerjee.

With the aforesaid observation, the writ petition (WPA No. 12086 of 2023) is disposed of.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Hiranmay Bhattacharyya, J.)