

03.01.2023
DL-4
(PP)
Ct.21

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 24050 of 2022

Ajharul Islam
Vs.
Union of India & Ors.

Mr. Md. Younush Mondal
.....for the petitioner.

Mr. Anirban Mitra
....for Union of India.

The petitioner's grievance is that he has been transferred from Digberia, Madhyaamgram, Kolkata to Nalkata, Tripura. The petitioner has been working with the Border Security Force (in short, "BSF") from February 28, 1989. The petitioner has served in Kashmir for many years. Thereafter, the petitioner was posted in Kolkata after his representation was considered and a compassionate posting was granted to him. The petitioner was posted in 179 Bn. BSF as permanent posting. Thereafter, the entire 179 battalion was directed to be posted at Nalkata, Tripura from October 23, 2022. The petitioner was also directed to move with the said battalion. The petitioner's grievance is that he has not completed two years in his compassionate posting. Prior to completion of two years, the petitioner has been posted to Tripura along with his unit.

Mr. Mondal, learned counsel appearing on behalf of the petitioner submits that the representation of the petitioner dated October 11, 2022 has not been considered till date by the respondent authorities. The petitioner also made representations on August 11, 2022 and also on October 7, 2022.

Mr. Mitra, learned counsel appearing on behalf of the respondent authorities submits that the movement order was for the entire 179 Battalion. The petitioner was not singled out. There was no mala fide intention for transferring the petitioner to Tripura on the part of the respondent authorities prior to completion of tenure of compassionate posting. He hands over a copy of the written instruction in Court today. Let such instruction be retained with the records.

Having considered the rival submissions of the parties and the materials placed on record, this Court feels that justice will be subserved by directing the respondent no.3/the Inspector General (Comn), BSF to consider the representation of the petitioner dated October 11, 2022 and dispose of the same within six weeks from the date of the order. Let such representation be disposed of by giving a personal hearing to the petitioner and upon passing of a reasoned order.

Any document that the petitioner wishes to rely on with regard to the consideration of an individual similarly placed for transfer/retaining of a post at the place of service prior to transfer where the battalion itself has been subjected to a movement order shall also been taken into consideration by the respondent no.3 while disposing of the representation of the petitioner.

Let the reasoned order be communicated to the petitioner within two weeks of passing thereof.

With the directions aforesaid, **WPA 24050 of 2022** is **disposed of**.

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.)