

Item No. 3
07.02.2023
Court. No. 19
GB

W.P.A. 25265 of 2018

Chaya Rani Manna Kotal
VS
The State of West Bengal & Ors.

Mr. Ranikanta Pal

...for the Petitioner.

*Mr. T.M. Siddiqui,
Mr. N. Chatterje,
Mr. Amrit Lal Chatterjee*

...for the State.

In this writ petition the petitioner has challenged an order of transfer. The following issues have been urged:-

- a) The Anganwadi Centre No.72 situated at Jagatpur Ball Ground ICDS Centre within village and post office Jagatpur, lacked infrastructural facilities.
- b) The petitioner had to perform all kinds of functions as there was no sahayika.
- c) The petitioner engaged a cook to prepare the meals under the supplementary nutrition programme and paid the salary from her own pocket.
- d) That the authorities were approached by the petitioner time and again so that proper infrastructural facilities could be installed and a sahayika could be appointed. The authorities did not take any notice of such request.
- e) As the petitioner raised certain questions with regard to the infrastructural facilities, she was transferred to Anganwadi Centre No.74 and then

to Anganwadi Centre No.98 without any prior hearing.

According to the petitioner, the transfer was punitive and hence she ought to have been heard before such transfer was directed.

It appears that by order dated February 20, 2018 the petitioner was transferred from Anganwadi Centre No.72 to Anganwadi Centre No.74, on public interest. The petitioner did not join the transferred post, instead wrote letters for grant of leave so that she could recover from her physical infirmity before joining the place of transfer. In reply to her prayer, the authority asked the petitioner to join Centre No.98 and then pray for leave.

According to the petitioner, the authorities were not sure whether the petitioner was to join the Anganwadi Centre No.74 or Anganwadi Centre No.98. Contrary stands were taken by the authority.

The petitioner did not join the transferred post. Hence, the authority issued another notice dated March 22, 2018, inter alia, asking the petitioner to attend a hearing on March 29, 2018 at 11 a.m. in the office of the Child Development Projected Officer (CDPO), Khanakul-II ICDS Project. From the said letter it appears that the transfer order was issued on February 20, 2018 asking the petitioner to join Anganwadi Centre No.74 upon consideration of a report of the ICDS Supervisor which, inter alia, stated that the petitioner was not rendering her duties as an anganwadi worker. The petitioner did not comply with the transfer

order at any stage. As a consequence whereof, the beneficiaries of Anganwadi Centres were suffering. Under such circumstances, the petitioner was called for a hearing. The petitioner attended the hearing and it has been alleged in the writ petition that no final order was communicated until February 6, 2023 when the petitioner was informed that no final resolution had been recorded post such hearing.

Mr. Siddiqui, learned advocate appearing on behalf of the State respondents submits that by a letter dated April 3, 2018 the petitioner was informed that Centre No.98 should be read as Centre No.74 in the letter dated March 19, 2018. In response to the prayer for leave, the petitioner was asked to join the ICDS Centre No.74 and then apply for leave. Thus, the authorities were willing to allow the petitioner's leave provided she joined the post at Centre No.74. She did not hand over the keys of the ICDS Centre No.72 to the authority. She kept the Centre under lock and key. The Child Development Project Officer had instructed the petitioner by a letter dated April 17, 2018 to hand over the keys of the Centre along with all necessary books of accounts, etc. The petitioner did comply. By letter dated May 7, 2018 the petitioner was finally asked to hand over the keys and books of accounts as also the charge of the Anganwadi Centre No.72 to the Supervisor and join Anganwadi Centre No.74 at the earliest. The petitioner was deemed to be released from the Centre if she failed to hand over charge. The petitioner failed to comply with such direction and the petitioner was deemed to be released. The Child Development Project

Officer made a prayer before the Sub-Divisional Officer/Magistrate, Arambagh, Hooghly for permission to break open the Anganwadi Centre No.72 which was kept under lock and key by the petitioner and the petitioner instead of handing over the charge along with the books of accounts and other necessary documents, failed to join the transferred post and also to hand over charge to the Child Development Project Officer. By letter dated May 28, 2018, the Sub-Divisional Officer permitted the Child Development Project Officer, Khanakul-II ICDS project to open Centre No.72 in presence of the representatives of the Block Development Officer, Pradhan of Jagatpur gram panchayat and the police authorities by June 1, 2018. The Child Development Project Officer was also directed to prepare a proper proceeding of the entire process and prepare a detailed list of stocks. The authority was asked to state whether anything was missing. The entire episode was videographed. The Child Development Project Officer was further requested to ensure smooth running of the ICDS centre after handing over charge, for the benefit of the children of the area. Finally on February 6, 2023 the petitioner was informed that the hearing given to the petitioner was a verbal one and no resolution or minutes had been drawn up.

The learned advocate for the petitioner however does not admit receipt of the letters produced by the respondents, by which the petitioner was asked to hand over charge.

The issue with regard to lack of infrastructural facility in Anganwadi Centre No. 72 is no more germane. It appears that by May 2018, the anganwadi centre was reopened as per the direction of the Sub-Divisional Officer and the same has been functioning.

The petitioner did not join the transferred post at Anganwadi Centre No.74. Her reason for not joining was illness. Her representations were considered and she was asked to join the post and thereafter pray for leave. The petitioner did not do so. Such intimation was given to the petitioner in March 2018. The authority had also clarified that Centre No.98 was wrongly mentioned in the communication dated March 19, 2018 and such mistake had been corrected by a letter dated April 3, 2018 which has been placed before the Court. Centre No.98 was corrected a Centre No.74.

The petitioner was given several opportunities to join the transferred post. At the relevant point of time such transfer to Centre No.74 was made in public interest. Thereafter there was report that the petitioner had not discharged her duties properly at Anganwadi Centre No.72. Hence, she was asked to go to Anganwadi Centre No.74. Even then, at the relevant point of time the petitioner did not raise any question with regard to such transfer. She wanted to take leave on account of illness. Such opportunity was given to the petitioner by asking the petitioner to join the transferred post and then pray for leave. The petitioner defied every direction that was issued by the authority by not

joining the transferred post, by not handing over the charge and books of accounts and by keeping the Centre No.72 under lock and key. The net result of such action of the petitioner had resulted in disruption of service to the children covered by the Centre No.72 and 74. Even then the authority had asked the petitioner to appear for a hearing. The petitioner was deemed to be released from Center No. 72.

However the authority has not yet decided whether the petitioner's engagement has been terminated or not. The petitioner was called for a hearing but the said hearing has not resulted in any final decision as yet. Thus, the issue in the writ petition with regard to the transfer to Centre No.74 being punitive has now become irrelevant and the challenge is also infructuous. Admittedly the petitioner did not join the transferred post since 2018. The authorities also did not reach any final decision with regard to such prolonged absence from service.

The competent authority shall call the petitioner for a further hearing and decide the fate of the petitioner's service as an Anganwari worker in the backdrop which has been narrated hereinabove.

The observations made in the writ petition shall be restricted to the disposal of this writ petition and the authority concerned shall hear the petitioner independently and take a decision in the matter. The authority shall be at liberty to take a decision in accordance with law, upon granting an opportunity of hearing to the petitioner and

other interested parties. A reasoned order shall be passed and communicated to all concerned. The entire exercise shall be completed within three months from the date of communication of this order. A copy of the writ petition along with a server copy of this order be served upon the CDPO, Khanakul II, ICDS project.

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

All the parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)