

18-12-2023
ct no. 13
sl. No. 9
pk

WPA 26406 of 2023

Sri Surya Kanta Maji
Vs.
Union of India and others

Mr. Achin Kumar Majumder,
Ms. Ananya Adhikary
... for the petitioner.

Mr. Sukumar Bhattacharya,
Ms. Aishwarya Rajyashree
... for the respondent nos. 1 to 5.

1. The petitioner is aggrieved by an order dated 15th May, 2023 passed by the Divisional Security Commissioner, R.P.F., Eastern Railway, Malda transferring him from the post of IPF, CIB., Headquarters, Seladah to A & D Wing of DSC Office, Malda. The transfer was characterised as a temporary attachment.
2. Counsel for the petitioner would rely upon the guidelines of the Ministry of Railways dated 28.12.2017 particularly 1(i)(a) with regard to transfer and also Clause (ii) thereof which specifies that inspectors and sub inspectors except posted faculty members at training centre will have three years of tenure before transfer. Admittedly, the petitioner was posted on promotion at Sealdah in the CIB on 20.01.2022.
3. Apart from violation of guidelines as indicated above, it is submitted that a transfer without indicating the reasons thereof is illegal. Reliance is

placed on two decisions of this Court. The first of which is the case of **Srikanta Saha Vs. Union of India** reported in **2013 (3) CLJ Cal 184** particularly paragraphs 14 and 15 thereof. Reliance is next placed on a decision affirming the earlier decision of Srikanta Saha (Supra) in the case of **Union of India Vs. Srikanta Saha** reported in **2016 (3) CHN Cal 481** particularly paragraphs 6 and 7 thereof.

4. Learned counsel for the RPF submits firstly that the transfer in the instant question was not a regular transfer but a temporary attachment to the A & D Office, Malda. A confidential report is placed for perusal of this Court.
5. Without going into the details of the same, this Court is prima facie satisfied as regards taking the petitioner away from the post of CIB Inspector, Sealdah and to attach him to A & D Office, Malda. The respondents have credible information/evidence indicating the petitioner's involvement in gold smuggling.
6. It is now well settled that transfer, in service jurisprudence, is effected based on administrative exigency. A person cannot claim as a matter of right to remain in a posted position for the entire period of tenure in a post.
7. Reliance placed by counsel for the petitioner on circular dated 28.12.2017 may not be

appropriated as the same are at best guidelines and not mandatory rules.

8. In the instant case, it would not be inappropriate to assume that the petitioner was well aware of the reasons for his temporary attachment at Malda.
9. This Court is of the view that the RPF may have reassigned/attached him at Malda in contemplation in disciplinary proceedings. There are substantial indications therefor from the confidential report placed before this Court. The report is considered and returned back to the learned advocate for the RPF.
10. It is an equally well settled proposition that when an employer is contemplating departmental proceedings, in lieu of suspension, transfer may often be resorted to prevent tampering of evidence and influencing witnesses.
11. The facts available in the decisions of the **Srikanta Saha (supra)** are also substantially different from the facts of the instant case and therefore distinguishable and cannot be applied here.
12. For the reasons stated herein above, the instant writ petition fails and is hereby dismissed.
13. There will be no order as to costs.

14. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)