

Item No.15

In the High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

05.12.2023
Ct-24
AGM

WPA 26418 of 2023
Usnehar Bibi @ Mst Usnehar Khatun
v.
The State of West Bengal & Ors.

Mr. Partha Sarathi Das
Md. Wafiz Ali
Ms. Shanta Sarkar

... for the petitioner.

Mr. Debjit Mukherjee
Mr. Anujit Mokherjee
... for the State.

The petitioner is a Sahayika of Srikanthapur SSK in gram panchayat Hizole. She is nearly 58 years of age. She is aggrieved by the order of transfer dated 7th November, 2023 issued by the Executive Officer, Kandi Panchayat Samity, Kandi Murshidabad whereby she has been transferred from Srikanthapur SSK to Aharinagar Sauantalpara SSK.

According to the petitioner, her transferred place of posting is far away from her residence and she has to cross three rivers to reach her present place of posting.

Specific submission of the petitioner is that the service of the Sahayika is not transferable. There is no provision of transfer mentioned in her letter of engagement. She is of advanced age and she ought not to be transferred at the fag end of her service career.

Learned advocate representing the State respondents submits that the order of transfer has been issued in public interest as there are several complaints /allegations against the petitioner. The transferred place of posting is only six kilometers away from her present place of posting.

It appears from the submissions made on behalf of the parties that the complaints/ allegations against the petitioner have not been made known to her. She has not been provided any opportunity to defend the complaints/allegations made against her. Admittedly, there is no provision for transfer of the Sahayika.

According to the State, the transfer is in the interest of public service. It appears from the transfer order that the engagement has been made within the same gram panchayat.

Without entering into the merits of the order of transfer at this stage, as it appears that a representation has been filed by the petitioner on 10th November, 2023, which is pending consideration before the Executive Officer of the Panchayat Samity, accordingly, the Court directs the Executive Officer of the Panchayat Samity to take into consideration the representation of the petitioner and afford her an opportunity of hearing.

The aforesaid Executive Officer shall consider the matter in accordance with the terms and conditions of the engagement letter and pass a reasoned order in the matter at the earliest but positively within ten days from the date of communication of this order. A reasoned order shall be passed and communicated to the petitioner immediately thereafter.

If the Executive Officer relies upon any complaint/allegation against the petitioner, then the copy of the same shall be provided to the petitioner to permit her to defend herself.

Let a copy of the representation dated 10th November, 2023 be forwarded to the aforesaid officer at the time of communicating the order of the Court.

The writ petition stands disposed of.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)