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13.6.2023
S.D.

W.P.A. 27801 of 2022

**Chirasree Sanyal
Vs.
Union of India & Ors.**

Mr. Sabyasachi Chatterjee
Mr. Sandipan Das
Mr. Sayan Banerjee
Mr. Imtiaz Akhtar
Mr. Badrul Karim
Mr. Kiron Sk.

... For the Petitioner

Mr. Dipankar Das

...for the Respondent Nos. 2 to 5

Mr. Hemonta Coomer Mitter

...for the Union of India

The petitioner entered into a fixed employment agreement with the Airlines Allied Services Limited on February 16, 2012. The said company was also known as Alliance Air. The holding company of Alliance Air is Air India Asset Holding Pvt. Ltd. The petitioner has been rendering her service under the said agreement which has been extended from time to time. The petitioner was originally appointed as Deputy Manager, In Flight Services. The petitioner is now discharging her service at Shillong as a Station Manager.

It is the grievance of the petitioner that she has been transferred vide order dated December 5, 2022 by the authority concerned from Kolkata to Shillong with *mala fide* intention and ulterior motive. The petitioner is required to work under one Bikash Sharma, Manager vide order dated June 14, 2022 with ulterior motive. It was with *mala fide* intention such transfer dated December 5, 2022 was made since the petitioner challenged the arbitrary order dated June 14, 2022. The said Bikash Sharma is not only less experienced than the petitioner, but also lacks professional and educational qualification to match that of the petitioner. The said person without completing 6 months in the position of a Manager was elevated to the post of “Coordinator”.

Even though the petitioner has served the company for more than 4 and ½ years in the post of Manager, in 2022 still the post of Coordinator was given to the said Bikash Sharma. Both the orders dated June 14, 2022 and December 5, 2022 are under challenge in the present writ petition.

Mr. Chatterjee, learned counsel appearing on behalf of the petitioner submits that the said Bikash Sharma has resigned from service. Despite the fact that there was a vacant post available in Kolkata, the petitioner was directed

to continue her service at Shillong whereas new recruitment process was initiated to fill up the vacancy in Kolkata.

Mr. Das, learned counsel appearing on behalf of the respondents submits that transfer is an incident of service. From the Employment Agreement dated February 16, 2012, it appears that the petitioner may be directed to serve in any department and any location within India or abroad as required by the company. Therefore, there was no infirmity in the issuance of the transfer order dated June 14, 2022.

It was also clarified by the Report on Affidavit that the petitioner did not have to report under the said Bikash Sharma/respondent no. 5 and he was not given a higher post compared to that of the petitioner. Both the petitioner and the respondent no. 5 had same designation of "*Manager*". The respondent no. 5 was only entrusted with an additional duty of "*Coordinator*" of East and North-East Region. The said grant of additional duties cannot be equated with promotion. The role of "*Coordinator*" does not attract any additional financial benefits nor is a designated post as per the Company's Career Progressive Chart. It is mainly a function that is allotted to the employees as a part of their job rotation to ensure effective work output.

The petitioner was required to directly report to the Chief of Airport Operations/Head of Airport Operations at Delhi while being posted at Shillong and not the respondent no. 5.

Considering the submissions of the parties and the materials placed on record, this Court is of the opinion that the writ petitioner has not been able to show that her job was not a transferable job. Furthermore, the writ petitioner has not been able to show that by the transfer order dated December 5, 2022, the employer has evidenced an ulterior motive or *mala fide* intention by requiring the petitioner to report to the respondent no. 5. The petitioner has also not been able to show that by appointing Respondent no. 5 as the “Coordinator” vide order dated June 14, 2022 he was promoted or given better benefits than the petitioner. The petitioner also has not been able to show that greater benefits, financial or otherwise were given to the said respondent no. 5 when the petitioner was entitled to the same.

Transfer being an incident of service is governed by the exigencies of service. An employee has no fundamental right or vested right to claim a transfer or posting of their choice. The view of this Court finds support in an Apex Court’s

judgment reported in 2022 Live Law (SC) 266 (**Sk. Nausad Rahaman & Ors. vs. Union of India & Ors.**)

In the circumstances, this Court finds no perversity in passing of the Office Order dated June 14, 2022 or the Office Order dated December 5, 2022.

W.P.A. 27801 of 2022 is dismissed.

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

Urgent Photostat certified copy of this order, if applied for, be given to the parties upon compliance of all the formalities.

(Lapita Banerji, J.)