

51 **04.07.**
2024

Ct. No. 08

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FMA 611 of 2024
IA No. CAN 1 of 2024

Raju Das
Vs.
The State of West Bengal and others.

Mr. Suvro Prakash Lahiri,
Mr. Rajesh Naskar,
Mr. Akash Saha.

... for the appellant.

Mr. Bhaskar Prasad Vaisya,
Mr. Sagnik Chatterjee.

.... for the State.

Mr. Sunit Kumar Roy.

... for the SSC.

An application for transfer filed by the appellant is still pending before the authority and alleging inaction on the part of the authority in not taking a conscious decision thereupon, a writ petition was filed before this Court. The Single Bench rejected the said writ petition as the ground on which the appellant seeks general transfer is not convincing.

We are conscious on the proposition of law that the Writ Court does not entertain the application relating to transfer, as the employer is the best judge to run the administration and to utilize the human resources in better administration of justice.

The Court restrained itself from entertaining any decision taken by the authority relating to transfer unless it is brought to the notice of the Court that such decision is unreasonable, irrational and not in commensurate with the statutory rules framed in this regard.

The act of malice or mala fide intention may also be one of the factors in interfering with the decision of the authority concerning the transfer of the employee, but the approach to the Court should not be encouraged if

the authority has rejected the application for transfer or allowed the same in a pragmatic and justice oriented manner. The Court should leave the decision to be taken by the authority and should not usurp such power in the domain of the writ jurisdiction to find out whether the grounds taken for such transfer is convincing and/or reasonable.

The grievance of the appellant was restricted to the inaction on the part of the authority in not taking a decision on the basis of the application for transfer, which, in fact, has been kept in abeyance.

Such being the cause of action and the relief based thereupon does not invite the decision to be taken for rejecting the said application for transfer when the authority has not applied its mind over the said application.

We, therefore, set aside the impugned order.

We direct the concerned authority to consider the application for transfer filed by the appellant in accordance with the statutory Rules and the notifications applicable in this regard and entire exercise shall be completed within three months from date.

With these observations, the appeal and the connected application are disposed of.

There shall, however, be no order as to costs.

(Harish Tandon, J.)

(Prasenjit Biswas, J.)

