

16.07.2024
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WPCT 190 of 2024
Shri Ranjan Kumar Nayak & Another
– *Versus* –
Union of India & Others

Mr. Phatick Chandra Das,
Ms. Soma Choudhury (Bondhu),
Ms. Tithi Paul
... for the Petitioners.
Mr. Koushik Roy,
Ms. Sipra Chanda
... for the Respondent nos.1 & 3-6.

The present writ petition has been preferred challenging an order dated 27th June, 2024 passed by the learned Tribunal in the original application (hereinafter referred to as OA), being OA 350/00415/2024.

Mr. Das, learned advocate appearing for the petitioners submits that it would be explicit from the impugned order of transfer dated 8th January, 2024 that the unreserved category candidates have been transferred in the same station whereas a different yardstick has been applied to the reserved category candidates being the petitioners herein. Such discrimination as practiced is unbecoming of the model employer.

Drawing our attention to clause 13.5 of the Transfer Policy of Non-Gazetted Railway employees – Master Circular, Mr. Das submits that though the said circular was annexed to the rejoinder filed by the petitioners, the

same was not taken into consideration by the learned Tribunal.

He contends that it would also be explicit from the circular dated 19th January, 2024 that on transferring/posting of SC/ST candidates/ employees the extant guidelines *vide* Railway Board letter dated 24th December, 1985 ought to have been kept in mind by the competent authority which *inter alia* provides that the transfer of SC/ST employees should be confined to their native districts.

He strenuously argues that a perusal of the order impugned would reveal that the learned Tribunal had paraphrased different orders passed by the Hon'ble Supreme Court and abruptly rejected the petitioners' claim on the basis of an erroneous premise.

Referring to paragraph 5.2 of the order impugned, Mr. Das submits that the learned Tribunal erroneously observed that the circulars upon which reliance has been placed by the petitioners pertain to office bearers of the SC/ST association. Such arguments, as advanced, were glossed over by the learned Tribunal and no finding was returned on the same.

Mr. Roy, learned advocate appearing for the respondents/railway authorities, however, denies and disputes the contention of the petitioners and submits that transfer is an incident of service and is necessary in public interest. It needs to be emphasized that

Government servants have no legal right to be posted in any particular place and they do not enjoy any right to continue in a particular place indefinitely. The petitioners are working at Santragachi for a period of about nine years and no *mala fide* has been alleged against the respondents. In the said conspectus, the learned Tribunal rightly dismissed the OA.

Drawing our attention to the transfer order, Mr. Roy has also indicated that the transfers were promotional transfers and by the same transfer order one ST category candidate and one SC category candidate were also transferred to different places.

We have heard the learned advocates appearing for the respective parties and considered the materials on record.

Paragraph 13.5 of the Master Circular runs as follows:

'The employees belonging to Scheduled Castes and Scheduled Tribes should not be transferred from one place to other quite frequently. Posting of employees belonging to these communities on their initial appointment/promotions /transfers should as far as practicable be confined to their native district or adjoining districts or places where the Railway Administration can provide the quarters subject to their eligibility.'

The petitioners admittedly have not been frequently transferred. They have continued in the posts from which

they have been transferred, for a period of more than nine years. It is well-settled that transfer is an incident of service and is necessary in public interest. An employee does not enjoy any vested right to continue in a particular post indefinitely. It is also not a case that the transfer order has been issued for any collateral purpose with oblique motive and it has also not been alleged that the action of the authorities effecting transfer is *mala fide*.

The learned Tribunal, upon dealing with all the factual issues arrived at specific findings and we do not find any error, least to say any patent error of law in the order impugned. The scope of judicial review is very narrow and limited and such jurisdiction should be exercised sparingly and only in appropriate cases where the judicial conscience of the Court dictates. The impugned order does not suffer from any jurisdictional error or any substantial failure of justice or any manifest injustice warranting interference of this Court.

The writ petition, being WPCT 190 of 2024 is, accordingly, dismissed.

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

Urgent photostat certified copy of this order, if applied for, be supplied to the parties, upon compliance of all requisite formalities.

(Partha Sarathi Chatterjee, J.) (Tapabrata Chakraborty, J.)

