

09.08.2024
Ct. 23
D/L 5
ab

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

WPA 18918 of 2024

**Meghnad Mukhopadhyay
-Vs-
Union of India & Ors.**

Ms. Mousumi Mukhopadhyay
... wife of the petitioner in person

Ms. Sabnam Laskar
... for the respondents

Mr. Ujjal Ray, learned advocate, who is present in Court, has expressed his inconvenience in moving the matter in view of the resolution taken at the bar. The wife of the petitioner citing urgency has sought leave of the Court to do the matter.

Leave is granted to Ms. Mousumi Mukhopadhyay, the wife of the petitioner to move this matter to which the learned advocates engaged by the petitioner has no objection.

The petitioner is an Assistant Sub-Inspector (Executive) in Central Industrial Security Force (in short, "CISF") and is presently posted at CISF Unit-Aviation Security Group (Kolkata). The petitioner says that he has been serving CISF for about 34 years. The

petitioner had accepted all the transfer order as and when made and had served at the transferred place. The petitioner while was posted at Ahmedabad in Sardar Vallabhbhai Patel International Airport in the year 2022 became severely ill and as such, applied for being transferred to his Home Sector. The petitioner has been served with a transfer order dated 30th June, 2024 by which he was asked to join at IOC Panipat. The petitioner says that he has to undergo regular treatment and it is, therefore, difficult for him to join at the transferred place at IOC Panipat since his treatment is going on in Kolkata. The petitioner also refers to the Circular No. 22 of 2017 dated 25th September, 2017 issued by Directorate General, Central Industrial Security Force (Ministry of Home Affairs) and in particular Clause 12 thereof. The petitioner says that under the said Clause, the entire service tenure of a personnel in CISF is divided into four parts. The 1st Tenure of 7 years shall be in Units out of Home Sector, which excludes the basic training period. The 2nd Tenure is of 12 years in Units in Home Sector. The 3rd Tenure is of 6 years in out of Home Sector and the 4th Tenure i.e., for the remaining service is at the Home Sector. The petitioner says that he has served for about 25 years in out of Home Sectors and as such, towards the end of his service tenure, he is to be posted in the Home Sector. The petitioner would not have objected to

the transfer, if he had not suffered the ailment for which he had to come from Ahmendabad and undergo treatment in Kolkata.

Transfer order is a part of policy decision taken by the employer for smooth administration of the office/unit. Transfer orders are seldom interfered with. Only where the transfer order appears to be palpably illegal or is with an aim to victimize the employee is interfered with by the Court. In the instant case, the petitioner has served CISF for about 34 years. The petitioner claims that he has been served about 25 years in out of Home Sector. The petitioner, therefor, is entitled to in terms of the Circular No. 22 of 2017 to be posted in the Home Sector. That apart, the ailment and consequent treatment of the petitioner is standing in the way of the petitioner in joining at the transferred place which is out of Home Sector.

There is substance in the petitioner's submission in view of the provisions of the said circular no. 22/2017 and in particular Clause 12 thereof. If the petitioner has already served about 25 years in out of Home Sector when the prescription under the said circular is total 13 years completed with the ailment and treatment, the petitioner's case is required to be re-visited with sympathy.

In the aforesaid facts and circumstances, I direct the respondent no. 2 to reconsider the order of transfer

dated 30th June, 2024 by which the petitioner has been asked to join at IOC Panipat keeping in mind his health condition, the treatment which he has to presently undergo and as also the tenure of his service out of the Home Sector. The exercise of reconsideration should be made within a period of one month from the date of communication of this order after giving the petitioner a reasonable opportunity to represent by producing necessary documents. Till the decision of transfer is reconsidered, the order of transfer dated 30th June, 2024, so far as it relates to the petitioner from transferring him to IOC Panipat from Kolkata, shall be kept in abeyance.

Nothing further remains to be adjudicated in this writ petition. The same is accordingly disposed of.

Since I have not called for any affidavits, the allegations contained in the writ petition are deemed to have not been admitted by the respondents.

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

(Arindam Mukherjee, J.)