

01.05.2024
Item No.02
Court No.11
Avijit Mitra

WP.ST 193 of 2023

In re: An application under Article 226 of the Constitution of India;

And

Anita Mahar
- Versus -
State of West Bengal & ors.

Mr. Tulsidas Roy,
Mr. K.P. Tiwari,
Mr. Tirthankar Roy
... for the petitioner
Mr. Tapan Kumar Mukherjee, Ld. A.G.P.,
Ms. Rama Halder,
Mr. Amartya Pal
...for the State respondents

Records reveal that the petitioner challenged an order of transfer dated 18th August, 2023 before the learned Tribunal. By an order dated 12th October, 2023 the learned Tribunal disposed of the original application being O.A. No.695 of 2023 without any orders with the observation that '*the Tribunal does not find any reasonable ground for the applicant should pray for setting aside the transfer order*'. Challenging the said order, the petitioner filed the present writ petition. During pendency of the same, the petitioner was directed to join at Kultali Police Station in cancellation of her earlier posting order at Kashipur Police Station *vide* memo dated 3rd January, 2024. Thereafter pursuant to the order of

this Court dated 24th January, 2024, the petitioner joined her new place of posting on 29th January, 2024 and submitted a representation for regularisation of the period of her absence. Thereafter in terms of an order dated 19th March, 2024, the competent authority passed an order on 5th April, 2024 regularising the petitioner's period of absence. Let the said order, as produced, be kept on record.

Mr. Roy, learned advocate appearing for the petitioner informs this Court that the petitioner is duly discharging her services at Kultali Police Station and has also submitted a representation dated 5th February, 2024 to the Additional Deputy Inspector General (Administration) with a prayer to transfer her at a place nearest to her Jadavpur Police quarter where she is residing with her mother, who is a cancer patient and her minor daughter, who is studying in a school at Central Park, Kolkata-700032. Except her, there is none to look after her ailing mother and her child. She is thus facing unsurmountable inconvenience in attending her place of posting, which is about 66 kms away from her Jadavpur Police quarter. In cases where the employees' dependants are suffering from severe ailments, the authorities had transferred them nearer to their places of residence so that they may

take care of their dependants, as would be explicit from a memo dated 21st February, 2024 issued by the Inspector General of Police Administration, West Bengal. Taking note of such circumstances, the authorities should transfer her to a place nearest to her Jadavpur Police quarter.

Mr. Mukherjee, learned Additional Government Pleader appearing for the State respondents submits that the petitioner's representation for regularisation of the period of absence was sympathetically considered and regularised. In view thereof, no further direction is called for in the present writ petition.

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

The petitioner's mother is a cancer patient and there is none to look after her except the petitioner. The petitioner is also having a minor daughter. It appears that in similar cases the authorities in consideration of the severe ailments suffered by the dependants considered the prayer for transfer of many officers, as would be explicit from the memo dated 21st February, 2024.

Mr. Mukherjee informs us that the representation dated 5th February, 2024 submitted by the petitioner has already been forwarded to the

competent authority being the Inspector General of Police Administration, West Bengal, for consideration.

In view thereof, we dispose of the present writ petition directing the Inspector General of Police Administration, West Bengal to consider the petitioner's prayer for transfer sympathetically and to take an appropriate decision, in accordance with law and communicate the same to the petitioner, within a period of eight weeks from the date of communication of this order along with the copies of the representation dated 5th February, 2024 and the memo 21st February, 2024.

With the above observations and directions, the writ petition being WP.ST 193 of 2023 is disposed of.

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

Urgent photostat certified copy of this order, if applied for, be given to the learned advocates for the parties.

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