

HIGH COURT AT CALCUTTA
In The Circuit Bench At Jalpaiguri
Appellate Jurisdiction

Present:

The Hon'ble Justice Jay Sengupta

WPA 1308 of 2024
Shreya Sanyal
Vs
Union of India & Ors.

For the petitioner : Ms. Shreya Sanyal.

.....the Petitioner appearing in person

For the State respondent nos.1 to 5 : Mr. Sudipto Kumar Mazumdar,
Id.DSGI
Mr. Ajoy Kumar Singhania

.....Advocates

Heard lastly on : 02.08.2024

Judgment on : 02.09.2024

Jay Sengupta, J:

1. This is an application praying for direction upon the respondents, especially respondents nos. 2 to 4, not to give effect to the approval list of transfer issued by respondent no. 2, in respect of serial no. 390 where the private respondent/respondent no. 6 is appearing.

2. The petitioner appearing in person submitted as follows. The petitioner was initially appointed to the post of Gramin Dak Sevak Branch Post Master on 20.07.2020 and was posted at Chakhaturia B.O., South 24 Parganas. As per the offline own request memo transfer policy, the petitioner applied for transfer to her home division and accordingly, she was transferred to Talma B.O., Jalpaiguri Division on 19.04.2022. The petitioner again took transfer to Mohitnagar B.O. Jalpaiguri on 07.07.2022 on own offline request. The petitioner took transfer as she made complaints to the higher authorities regarding false and illegal pass books, fake date stamps and involvement of subordinate staff, their friends and others in such nefarious activities. On the other hand, the respondents' case was that pursuant to the complaint against the writ petitioner, she was transferred from Mohitnagar B.O. temporarily. But, memo of transfer order did not speak so. In the Gramin Dak Sevak Rules, there is no provision for temporary transfer/attachment. In any event, once the writ petitioner was transferred from one place to another, she could not be shifted back to the previous place. Moreover, the letter issued by the office of the Post Master General, North Bengal Region mentioned that the petitioner as GDSBPM, Mohitnagar, B.O. was the permanent post of the petitioner and therefore, the vacancy declaration for the said post was illegal and in violation of the GDS Rules. The petitioner's grievance was that once she had been transferred to Mohitnagar B.O. with effect from the order dated 07.07.2022, she could not have been reverted back to her previous place of posting. The petitioner was not properly heard over her grievances.

3. Learned counsel appearing on behalf of the respondent nos. 1 to 4 denied the allegations made in the writ petition and submitted as follows. In accordance with the GDS, under Rule 3 schedule May, 2024, the private respondent no. 6 joined at Mohitnagar Branch Post Office on 26.02.2024. Hence, the writ petition already became infructuous. As per the existing Rules, if the two GDSBPM applied for transfer to the same place, then the senior one had the right to get preference to the effect of transfer. The aforesaid Subhrojyoti Das was senior to the writ petitioner. So he would have to be preferred. As regards the writ petitioner's contention that she got transfer to Mohitnagar B.O. permanently, the said memo of 13.07.2022 was not an order of transfer. It was only staff arrangement approval issued by respondent no. 4. It would be pertinent to mention that after the petitioner joined at Mohitnagar B.O., huge number of public complaints were received against her regarding misbehavior. She also made complaint against the other staffs. Subsequently, the petitioner was temporarily attached at Mohitnagar B.O. The petitioner's original permanent posting was at Talma B.O., and she was only temporarily attached with another branch at her own request. The permanent transfer could only be done in accordance with Rule 3 and after 15.10.2022, offline mode of transfer was not available in Dak Sevak. As the post of GDSBPM Mohitnagar Branch Post Office was vacant wherein the writ petitioner was temporarily attached with the branch as GDSBPM, the vacancy of GDSBPM Mohitnagar B.O. was notified in the Rule 3 of transfer schedule December, 2022. After publication of result, another person was transferred from her previous post to here and the petitioner was

temporarily attached at Kumarpara, B.O. As that other person submitted her resignation to the post of GDSBPM Mohitnagar B.O. became vacant. Then the writ petitioner prayed for attachment at Mohitnagar B.O. and she was temporarily attached there.

4. Although, the question of preliminary objection to the maintainability of the writ petition was not specifically raised during hearing of the writ petition, in the written notes the respondents took up such a point. According to them, although the GDSBPM was not an employee of regular all India Civil Services, but their service was under the Union of India. Therefore, Section 14 of the Administrative Tribunal Act would apply. The Central Alternative Tribunal would only have the jurisdiction to entertain an application as the present one.

5. I heard the petitioner appearing in person and the learned counsel for the respondents and perused the writ petitions, copies of relevant documents and written notes of submissions.

6. At the outset, the question of maintainability appears to have been taken up for the first time in the written arguments. Even there, the petitioner is described not as an employee of all India Civil Services. Besides, apparently there is an allegation of violation of principles of natural justice in as much as the petitioner was not adequately heard. Therefore, the writ petition can be entertained by this Court.

7. On merits, it appears from the order dated 13.07.2022 that the attachment of the petitioner to Mohitnagar B.O. (on own request) was clearly

stated to be a staff arrangement approval. The arrangement was carried out apparently with the petitioner's consent. After acting on such terms, now the petitioner cannot take a different stand that the same was a transfer on her request, more permanent in nature, and that she could not be sent back to her earlier post.

8. There is merit in the contention of the respondents that if two GDSBPM sought transfer at the same place, the senior of the two would get preference. So, the respondent no.6 was given the option.

9. It is not even the case that the petitioner's representation was not at all considered.

10. Besides, there is no indication that the action of the respondents was punitive in nature.

11. It will indeed be unfair for any Court of law to stifle the employer even from exercising regular administrative functions like effecting temporary staff arrangements and transfers, especially when the mode is adequately clarified.

12. In view of the above, this Court does not find any reason to make any intervention in the matter at the instance of the petitioner.

13. However, if the petitioner had made any complaints as referred to above, the same shall be looked into by concerned authorities afresh and taken to their logical conclusions.

14. With these observations, the writ petition is disposed of, however, without any order as to costs.

15. Urgent Photostat certified copy of this order, if applied for, be given to the parties, upon completion of requisite formalities.

(Jay Sengupta, J.)