

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

WPO/434/2021

SANJOY BISWAS
VERSUS
CANARA BANK & ORS.

BEFORE

The Hon'ble Justice SUBHENDU SAMANTA

Date: 28TH JUNE, 2024.

Mr. Jayanta Narayan Chatterjee, Adv.
Mr. Debashis Banerjee, Adv.
Mr. Supreem Naskar, Adv.
Mr. Rakesh Jana, Adv.
...for the petitioner
Ms. Aparajita Ghosh, Adv.
Mr. Souvik Ghosh, Adv.
...for respondent-Bank

THE COURT: Affidavit in opposition filed on behalf of the respondents is taken on record.

Affidavit in reply by the petitioner against the affidavit in opposition filed on behalf of the respondent nos. 1 to 3 (Bank) is also taken on record.

The present petitioner is a bank employee under Canara Bank. Initially, he was appointed in February, 2001 and thereafter transferred on several occasions. He was posted at the Kolkata Circle office from 7th day of June, 2012 to 25th day of October, 2014 and thereafter transferred to Durgapur Circle office and again posted at the Kolkata Circle office from 11th day of June, 2018 to 23rd day of July, 2021.

On 1st of July, 2021 a transfer order was passed by the respondent authority directing the present petitioner to join Bhubaneswar regional office, Bhubaneswar Circle. The alleged transfer order caused some difficulty in the family life of the present petitioner on the ground that he was 51 years of age, at that time and suffering from different ailments. Furthermore, his daughter was suffering from acute lung disease and appearing in Class XII final examination. However, one representation was made by the present petitioner on 5th July, 2021. He also commented in that representation that due to the prevalent pandemic situation of COVID-19, he may be allowed to continue his service with his place of posting at Barrackpore. However, he could not join his duty at Bhubaneswar. The office of the respondent nos. 1 to 3 forwarded specific intimation to the petitioner on 10th of August, 2021 directing him to immediately join the duty at Bhubaneswar regional office failing which the disciplinary action will be initiated. By the dint of this communication, the present petitioner seeks intervention of this Court. However, no interim order was passed in favour of the petitioner. Consequently, the petitioner joined his place of transfer at Bhubaneswar. Since then, the petitioner was engaged in Bhubaneswar circle. Initially he was at Bhubaneswar, thereafter at Bhadrak in the month of May, 2024.

Learned advocate for the petitioner submits that the present petitioner is suffering from serious critical ailment and now he is 53 years old. He further submits that it is quite difficult for him to continue his service outside State particularly due to his ill health.

The respondent authority did not consider the representation of the present petitioner on the earlier occasion but the present petitioner with his usual fairness again submitted two representations on 22nd March, 2022 as well as 29th May, 2024 for transferring him to Calcutta circle on health ground. These two representations were also not considered by the respondent authorities.

Learned advocate for the petitioner further submits that the necessary direction may be passed by the respondent authority, so that the present petitioner may be transferred from the Bhubaneswar circle to Calcutta circle. The petitioner also referred the transfer policy of the respondent Bank wherein it has been specifically mentioned that “generally transfer of officers from one place to other can be considered only after completion of three years of service”. Learned advocate for the petitioner also pointed out the transfer policy of the respondent Bank for the year 1998 wherein it has been mentioned that “normally officers who are aged 52 years and above will not be posted outside the home state except on promotion”. Learned advocate for the petitioner submits that according to the transfer policy of the bank in the year 2024, the age as mentioned above for the old officers was converted from 52 years to 54 years. Learned advocate for the petitioner also mentioned the clause of “request transfer” in the transfer policy itself as well as the lapse of request for transfer as follows:-

“Request Transfers:

Request from Officers for a transfer to a place of their choice on the grounds of sickness and compassionate grounds may be considered sympathetically on case to case basis subject to availability of vacancies and administrative exigencies.

Such request transfers may be considered for 2 occasions in the service as an officer employee.

Lapse of request for transfer:

Officials who have applied for transfer and the same is if not acceded to, then such request shall lapse after completion of transfer process of that year, unless the concerned officer renews his request again, by submitting fresh request in the transfer process”

It is further submitted on behalf of the petitioner that the petitioner belongs to SC category employee and there are provisions in the transfer policy regarding the SC/ST officers as follows:

“SC/ST Officers:

All officer employees of the Bank are liable for transfer to any Branch/Office and have all India transferability. As such no separate rules/guidelines are laid down in respect SC/ST Officers. However, whenever any representations are received from SC/ST Officers, such requests may be considered sympathetically.”

Learned advocate for the respondent Bank submits that the transfer itself is attached to the service. The present petitioner is in service for a long period. He must have known the norms of service as

well as the transfer policy of any bank employee from one region to another region. She submits that the transfer of any employee from one circle to another circle only made due to the administrative requirements and exigencies. The transfer policy and the transfer of the bank employee depends upon several considerations. She further submits that transfer of an employee from one circle to another circle requires posting of another employee of same nature and scale at the place of transfer. The present petitioner is now under Scale II officer. So, his transfer from Bhubaneswar circle to Kolkata circle requires one person of same scale be deputed at his place at Bhubaneswar circle. The function of the bank is to smooth performance of public service so the transfer policy cannot be challenged any way.

Heard the learned advocates for the parties.

Perused the transfer policy of the respondent bank for the year 2024. It appears that the present petitioner has made three representations to the bank authority but none of them was answered by the respondent authority. I make it clear that the respondent authority has formulated a policy of transfer but conduct of the respondent authority disclosed that they are not actually following the policy properly.

Respondents, being a statutory authority has formulated a policy of transfer of its employees. The policy facilitates some particular section of employees who are under old age and are belonged to a specific category. The terms and conditions of such policy must be

adhered to not only by the employees themselves but also to the authority concerned in its true letter and spirit.

The Bank authority is duty bound to manage the hurdles of administrative requirement and exigencies to fulfil the terms of the transfer policy.

Considering the entire aspect of the matter, I think it necessary that the case of the present petitioner need be considered sympathetically by the respondent bank in terms of the present transfer policy. It appears that the representation for “request transfer” has already been made by the present petitioner which has been reflected at page 20 of the reply on 29th May, 2024. Such representation and request has not been lapsed yet. Thus, the respondent authority is directed to consider the representation of the present petitioner dated 29th May, 2024 so that the transfer policy of the bank for the year 2024 may be adhered to strictly.

I make it clear that I have not considered the other parameters of availability of vacancies and administrative exigencies of the bank but as the request has been made on behalf of the petitioner and admittedly which was not considered by the bank authority, thus this Court is constrained to pass a specific order so that the present petitioner may be transferred to his home State.

The respondent authority is further directed to dispose of the representation of the petitioner dated 29th May, 2024 within four

weeks from date, such decision of the concerned authority shall be intimated to the petitioner within two weeks thereafter.

With the above observations the present writ petition is disposed of; connected applications, if pending, are also disposed of.

(SUBHENDU SAMANTA, J.)

sm/c.sinha