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W.P.No.27102 of 2023

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED: 14.06.2024**

**CORAM :**

**THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

W.P.No.27102 of 2023  
and W.M.P.Nos.26544, 26545 & 26546 of 2023

Sujith S.Kumar

.. **Petitioner**

**Vs.**

1.Union of India  
By its Secretary  
Ministry of Communications  
Electronics Niketan, 6, CGO Complex  
Lodhi Road, New Delhi – 110 003.

2.India Post Payments Bank Limited  
Rep.by Chief HRO  
Post Office, Speed Post Center Building  
Market Road, New Delhi – 110 001.

3.India Post Payments Bank Limited  
By its Asst. General Manager  
Circle Head, Anna Road, Chennai  
Tamilnadu Circle – 600 002.

4.India Post Payments Bank Limited  
By its Asst. General Manager

*Page 1 of 9*



W.P.No.27102 of 2023

Circle Head, Makubhai, Sheth Marg  
Ahmedabad, Gujarat Circle – 380001.

.. **Respondents**

**Prayer:** Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorarified Mandamus, calling for the records of the 2<sup>nd</sup> respondent in transfer order dated 02.08.2023 in Ref.No.IPPB/HR/2023-24/38 in so far it relates to the petitioner and the consequential relieving order issued by the 3<sup>rd</sup> respondent dated 09.08.2023 in No.IPPBTN/HR/TRF/2023-24/CR/100257 and to quash the same and consequently direct the respondents to consider the case of the petitioner in accordance with DoPT OM.No.28034/9/2009 dated 30.09.2009 for posting husband and wife in the same 'station' or same 'State'.

For the Petitioner : Mr.J.Srinivasa Mohan

For the Respondents : Mr.Mr.A.Kumaraguru  
SCGSC for R1  
Mr.A.E.Ravichandran  
for RR2 to 4

### **ORDER**

This Writ Petition is filed challenging the order of transfer dated 02.08.2023 and the consequential relieving order dated 09.08.2023 and for a consequential prayer that the respondents be directed to consider the case of



W.P.No.27102 of 2023

WEB COPY

the petitioner in accordance with D.O.P.T.No.28034/9/2009 dated 30.09.2009 for posting the petitioner along with his spouse in the same station or in the same State and for other orders.

2. *Mr.Srinivasa Mohan*, learned counsel appearing on behalf of the petitioner would submit that after filing of the present Writ Petition, the respondents themselves considered the request of the petitioner especially considering the extraordinary circumstances, where the spouse of the petitioner is working as TGT teacher under the Union Territory of Puducherry and the fact that the couple were undergoing protracted treatment to beget a child. The respondents permitted the petitioner to work in the present station up to March 2023.

3. It is now brought to the notice of this Court by the learned counsel for the respondents that the relieving order was passed on 30.03.2024 and from 01.04.2024, the petitioner's service was deemed to be in the transferred place and his salary itself credited from the said unit.



W.P.No.27102 of 2023

WEB COPY

4. It is at this stage, when the matter came up for final hearing, the learned counsel appearing for the petitioner would draw the attention of this Court to the fact that the respective guidelines and policies of the Government of India will apply to the employees of the 2<sup>nd</sup> respondent – Bank. According to him, as per the D.O.P.T.No.28034/9/2009 dated 30.09.2009, whenever a spouse is working a State Government service, as far as possible, the employee can be accommodated in the same State. Therefore, the policy itself is in favour of reconsideration of the transfer.

5. The second submission on behalf of the learned counsel for the petitioner is of medical grounds. The petitioner and his spouse were undergoing treatment under the Gynaecologist and now during the extended period, only on account of such treatment, his spouse is now pregnant and at this stage, it is extremely essential for the petitioner to be with her. Considering the special case of pregnancy upon being protracted treatment, it is his third contention that in a similar case, where the working of a



W.P.No.27102 of 2023

spouse has been brought to the notice of the respondents and they have canceled the transfer and permitted the person to be retained in the same place.

6. Further, the learned counsel for the petitioner submits that it is not that the petitioner asking for same station, but the spouse of the petitioner is working in Karaikal, Union Territory of Puducherry, whereas, now the petitioner is transferred to Gujarat. Therefore, the petitioner has made a detailed representation on 27.03.2024.

7. The learned counsel appearing on behalf of the respondents 2 to 4 would submit that the matter of place of posting and transfer are all within the domain of the respondent – Bank and the factors which are pointed out by the learned counsel for the petitioner are nothing but policy conditions, which can be taken into account while it will not give any concomitant enforceable right.



W.P.No.27102 of 2023

WEB COPY

8. The learned counsel for the petitioner would rely upon the Judgment of the Hon'ble Supreme Court of India in ***SK Nausad Rahaman & Ors. Vs. Union of India and Ors.***<sup>1</sup> more specifically paragraph No.51, which reads as follows:-

“51.The State in the present case has been guided by two objectives: first, the potential for abuse of ICTs and second, the distortion which is caused in service leading to plethora of litigation. The State while formulating a policy for its own employees has to give due consideration to the importance of protecting family life as an element of the dignity of the person and a postulate of privacy. How a particular policy should be modulated to take into account the necessities of maintaining family life may be left at the threshold to be determined by the State. In crafting its policy however the State cannot be heard to say that it will be oblivious to basic constitutional values, including the preservation of family life which is an incident of Article 21.”

9. The learned counsel would contend that it is not merely an enforcement of policy guidelines, but would fall within the realm of the family life of the petitioner, touching upon Article 21 of the Constitution of India.

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<sup>1</sup> 2022 LiveLaw (SC) 266



W.P.No.27102 of 2023

WEB COPY

10. I have considered the rival submissions made on either side and perused the material records of the case.

11. As rightly pointed out by the learned counsel for the petitioner, though matters of transfer and posting are within the domain of the employer, now considering the subsequent developments after passing the impugned order that the respondents themselves considered the case of the petitioner and extended his stay in the present station until March 2024 and thereafter only relieving order has been passed, it is for the respondents to consider all the submissions made on behalf of the petitioner. The petitioner has made a detailed representation on 27.03.2024. Therefore, without adjudicating any of the issues discussed above, this Writ Petition is disposed of on the following terms:-

(i) the respondents shall consider the representation of the petitioner dated 27.03.2024 on its own merits according to their policy guidelines and pass orders thereon within a period of four weeks from the date of receipt of



W.P.No.27102 of 2023

a copy of this order;

(ii) the petitioner can also make additional representation within a period of two days from the date of receipt of a copy of this order and in case, additional representation is made, the same shall also be taken into consideration;

(iii) No costs. Consequently connected miscellaneous petitions are closed.

14.06.2024

Neutral Citation : No

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To  
1.The Secretary  
Union of India  
Ministry of Communications  
Electronics Niketan, 6, CGO Complex  
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2.The Chief HRO  
India Post Payments Bank Limited  
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3.The Asst. General Manager  
India Post Payments Bank Limited



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Circle Head, Anna Road, Chennai  
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**D.BHARATHA CHAKRAVARTHY, J.**

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4.The General Manager  
India Post Payments Bank Limited  
Circle Head, Makubhai, Sheth Marg  
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W.P.No.27102 of 2023

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