19.03.2025
(D/L-9)
Ct. No.4
(B.K.N.)

W.P.C.T. 35 of 2025

Union of India & Ors.
Vs.
Sujit Ghosh

Ms. Chandreyee Alam,
Mr. Tapan Bhanja
...for the Petitioners

Mr. Sabyasachi Chatterjee,
Mr. Sayan Banerjee,
Mr. Badrul Karim,
Mr. Aritra Ghosh
...for the Respondent

1. The long and short of the arguments advanced on behalf of the parties today is whether the order passed by the Tribunal in O.A. No. 106 of 2025 staying the petitioner's transfer requires any interference, the same being an interim order subject to final consideration by the Tribunal in the pending proceedings.
2. The learned counsel for the private respondent has drawn our attention to the factual matrix culminating in passing of the interim order by the Tribunal. The private respondent, Senior Auditor was transferred from the station Kolkata to station Bengaluru on 29th November, 2024. Prior to such transfer he had submitted an option claiming exemption from transfer on certain grounds such as the spouse working at the station under the State

Government service where he is presently posted. A plea regarding his aged and ailing parents, the trauma likely to effect the seven year old son and some health issues. The petitioner had placed reliance on two policies of the Government of India dated 13th September, 2009 and 28th March, 2014. Insofar as the consideration of such request, it is trite that the same is subject of course to feasibility and administrative exigency.

3. The Tribunal having considered the matter passed a direction in O.A. No. 1853 of 2024 disposed of the Original Application in following terms:

> "9. Learned counsel for the respondents has no objection for such consideration.
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> 10. In view of above, the Respondent No. 2 i.e. the Controller General of Defence Account is directed to consider the representation of the applicant in light of the above mentioned judgments cited (supra), treating this O.A as part of his representation, and communicate his decision to the applicant by way of reasoned and speaking order within a period of 04 weeks' from the date of receipt of a copy of this order.
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> 11. Respondents are further directed not to give any effect to the transfer order dated 29.11.2024 in respect to the present applicant, till the decision is taken by the respondents, and, is communicated to the applicant.
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> 12. In view of above, OA stands disposed of with no order as to costs."

4. Pursuant thereto the speaking order dated 3rd January, 2025 was passed disposing of/rejecting the petitioner's claim. The petitioner, therefore, again approached the Tribunal assailing this order on the

ground that the same does not manifest any consideration of the issues raised in the option submitted by the petitioner. The same does not take into consideration the purport and intent of the policies dated 13th September, 2009 and 28th March, 2014. It is also assailed by the petitioner on the ground that the Tribunal directed the C.G.D.A to consider the request whereas the consideration has been accorded by the Deputy C.G.D.A (Admn.).

5. Upon finding a prima facie case the Tribunal has stayed the operation of the petitioner's order dated 29th November, 2024 as well as the relieving order dated 17th January, 2025 and then speaking order dated 3rd January, 2025.

6. Today when the matter is taken up the Court made a query to the learned counsel for the petitioner as to under what circumstances the Deputy C.G.D.A (Admn.) has considered the petitioner's claim when the Tribunal in unambiguous terms directed the C.G.D.A to consider the issue. The order was passed on no objection being raised by the respondents which is recorded in paragraph 9 of the order passed in O.A. 1853 of 2024, extracted above. The consent order passed by the Tribunal as per the case of the private respondent was not complied with by the respondents.

7. We do not wish to make any comment on the correctness of such submissions, having taken note of the facts and circumstances apparent from the records. After some arguments and being faced with the above noted circumstances the learned counsel for the petitioner has made a submission that liberty be granted to the C.G.D.A to consider afresh and pass a speaking reasoned order in terms of the order of the Tribunal passed in O.A. No. 1853 of 2024.
8. We would only observe that nothing prevents the petitioner from making such a request before the Tribunal. Since the matter is still pending before the Tribunal, at this stage we do not wish to make any comment on the merits of the matter.
9. The observations of the Court recorded above shall not have any persuasive value either way.
10. Reserving the liberty of the petitioner to take steps as per submissions and observations recorded above, immediately before the Tribunal we dispose of the writ petition.

(Madhuresh Prasad, J.)

(Supratim Bhattacharya, J.)