

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

WPO/1086/2024
IA NO: GA/1/2025
SANDIPTA GANGOPADHYAY
VS
THE INDIAN BANK AND ORS.

BEFORE :
HON'BLE JUSTICE PARTHA SARATHI CHATTERJEE
DATE : 8th May, 2025.

Appearance :
Mr. Rahul Karmakar, Adv.
Mr. Sounak Mukherjee, Adv.
...for the petitioner.

Mr. Shiv Managal Singh, Adv.
..for the respondent bank.

The Court :- The present writ petition has been filed challenging the justifiability of the transfer order dated June 28, 2024. In addition, the petitioner has sought directions to the respondent bank to make adequate arrangements for travel, including the grant of traveling allowance, and to treat the petitioner as being on official duty in order to enable him to effectively contest the criminal proceeding, being Special Case No. 02 of 2015, which is presently pending final adjudication before the Learned Additional Sessions Judge, 1st Court, Hooghly at Chinsurah.

Briefly stated, the facts that led to filing of this writ petition are that the petitioner commenced his service career as a Manager with Allahabad Bank in

the year 2008. In April 2021, he was transferred to the Zonal Office at Chinsurah, where he served as Manager, Credit. He is presently posted in the SAM Vertical at the Mumbai Branch. During his tenure as Manager, Credit at the Zonal Office, Chinsurah, the petitioner was allegedly involved in accepting an illegal gratification of ₹25,000/- from one Moni Majumder, purportedly to facilitate the sanctioning of a loan in Mr. Majumder's favour. The alleged transaction was video graphed, and the Officer-in-Charge of the jurisdictional police station is reported to have recovered the currency notes from the possession of the petitioner. Pursuant to this incident, a formal complaint was lodged against the petitioner.

Based on that complaint, an FIR was registered as Magra P.S. Case No. 316 of 2014 dated 20th August, 2014, under Section 409 of the Indian Penal Code, 1860, and Section 7 of the Prevention of Corruption Act. Thereafter, the respondent Bank granted sanction for prosecution against the petitioner under Section 19 of the Prevention of Corruption Act by an order dated 28.02.2015. Upon completion of the investigation, a charge-sheet was filed, and following the completion of necessary formalities, the case was committed to the Court of the Learned Sessions Judge, Hooghly. Subsequently, the matter was transferred to the Court of the Learned Additional Sessions Judge, 1st Court, Hooghly at Chinsurah, for trial.

In contemplation of disciplinary proceedings against the petitioner, he was placed under suspension. The petitioner thereafter submitted a representation before the competent authority seeking revocation of the suspension order. However, despite receipt of the said representation, no effective decision was

taken by the authority. Consequently, the petitioner was constrained to file a writ petition, being W.P. No. 5762(W) of 2015. The said writ petition was disposed of by an order dated 25.03.2015, whereby the competent authority was directed to reconsider the petitioner's prayer for revocation of the suspension order.

However, the competent authority ultimately declined to revoke the order of suspension. Aggrieved by this decision, the petitioner filed another writ petition, being WPA No. 7288 of 2015, challenging the refusal to revoke his suspension. The said writ petition was disposed of by an order dated 21.04.2015, whereby the competent authority was directed to permit the petitioner to resume his duties. The respondent Bank challenged the said order dated 21.04.2015 by filing an intra-court appeal, being FMA No. 3541 of 2015. However, the said appeal was ultimately dismissed by the Hon'ble Court on 30.08.2019.

Pursuant to the order dated 30.08.2019, the petitioner was permitted to rejoin his duties. However, despite his reinstatement, no back wages were released in his favour, which gave rise to another round of litigation. The petitioner accordingly filed a writ petition, being WPA No. 5611 of 2020, seeking an order for payment of back wages. The said writ petition was disposed of by an order dated 04.12.2020, directing the bank authorities to disburse the back wages to the petitioner. In compliance with the said order, the petitioner subsequently received the back wages.

Subsequently, the petitioner was transferred to the post of Senior Manager in the SAM Vertical, Recovery Cell, at the Mumbai Central Office. Aggrieved by the said transfer order, the petitioner submitted a representation to the competent authority, seeking its revocation.

However, as the earlier representation failed to elicit any favourable response, the petitioner was compelled to once again approach this Hon'ble Court by filing a fresh writ petition, being WPO 753 of 2024. The said writ petition was disposed of by an order dated 19th September, 2024, whereby the Bank was directed to reconsider the petitioner's transfer order.

Pursuant to the aforesaid direction dated 19.09.2024, the Bank issued an order dated 28th June, 2024, whereby it declined to revoke the transfer order. Aggrieved by the said order dated 28th June, 2024, the petitioner has preferred the present writ petition.

Mr. Karmakar, learned advocate for the petitioner, submits that following the petitioner's implication in the aforesaid criminal case, he was subjected to various forms of harassment and became a victim of bureaucratic high-handedness. It is submitted that the petitioner's salary was withheld, and he was placed under suspension, thereby compelling him to approach this Hon'ble Court by filing a writ petition. The petitioner, having faced continued adversity, was constrained to seek the intervention of this Hon'ble Court on multiple occasions.

He submits that by an order dated 21st April, 2015 passed in WPA No. 7288 of 2015, the petitioner's order of suspension was set aside. The intra-court appeal preferred against the said order dated 21.04.2015 was also dismissed, thereby affirming the petitioner's reinstatement. Subsequently, in compliance with the order dated 4th December, 2020 passed in WPA No. 5611 of 2020, the petitioner was paid his back wages. He further contends that, thereafter, the concerned authorities transferred the petitioner to the post of Senior Manager in the SAM Vertical, Recovery Cell, at the Bank's Mumbai Central Office.

Mr. Karmakar, learned counsel for the petitioner, submits that the impugned transfer order stands vitiated by mala fides, having been issued with an ulterior motive to prejudice the petitioner. By narrating the sequence of adverse incidents faced by the petitioner, he attempts to link those incidents to the present transfer order, and contends it is tainted with malice.

He further submits that the purported reasoned order, which refuses to set aside the transfer, cannot be sustained in the eyes of law. Accordingly, he prays for an appropriate direction upon the respondent Bank to transfer the petitioner to a location from which he can undertake an overnight journey to attend the Sessions Court and effectively defend himself in the ongoing criminal trial. In aid of his contention, he cites three decisions, reported at *(1994) Supp(2) SCC 666 (Director of School Education, Madras & Ors. vs. O. Karuppa Thevan & Anr.)* and *AIR 1993 SC 2486 (State of Punjab & Ors. vs. Joginder Singh Dhatt)* and *(1991) 4 SCC 132 (Reserve Bank of India vs. Reserve Bank of India Staff Officers Association and Ors.)*.

In rebuttal, Mr. Singh, learned advocate appearing for the respondent Bank, submits that there is no nexus between the impugned transfer order and the incidents narrated by the petitioner. He contends that the transfer order was purely in the public interest and on account of administrative exigencies.

It is further submitted that the petitioner has already accepted the transfer order and has joined the post at the transferred post. Therefore, according to Mr. Singh, the petitioner is now estopped from challenging the transfer order at this belated stage.

Mr. Singh further submits that the transfer order was issued strictly in accordance with the Indian Bank (Officers') Service Regulations, 1979, and reiterates that it was made in the interest of the Bank's administration. He also asserts that the judgments relied upon by the petitioner are factually distinguishable and have no application to the present case.

Heard the learned advocate. Perused the materials on record.

It is well settled that the provision of transfer forms an integral part of the service jurisprudence, designed to ensure the smooth and efficient functioning of the administration. Transfers serve the purpose of promoting transparency, accountability, and equitable opportunities among employees. Continued posting at one station or in one department is not conducive to good administration.

An employer enjoys broad discretion in placing an employee at a post based on administrative needs and organizational requirements. It is the prerogative of the employer to decide which employee would be posted at what place. No employee can claim a vested right to remain posted at a particular place or position. The scope of judicial review in matters of transfer is limited. A transfer order may only be interfered with by the Court if it is demonstrated that the order was issued in contravention of a statutory provision or applicable policy, is tainted with mala fide intention, or is punitive in nature.

As previously noted, Mr. Karmakar attempts to draw a connection between the incidents faced by the petitioner following his implication in the criminal case and the impugned transfer order. He contends that these incidents influenced the decision of the competent authority, thereby leading to the petitioner's transfer to

Mumbai. On this basis, he invites this Hon'ble Court to hold that the transfer order stands vitiated by mala fide intention.

Mere proximity between two events is not, by itself, sufficient for a prudent person to conclude that one event was motivated by the other. Allegations of mala fide intention, which inherently involve a hidden state of mind, must be substantiated by clear and convincing evidence manifested through the conduct of the concerned authority. In the absence of cogent and credible material indicating that the transfer order was issued on extraneous or irrelevant grounds, such an order cannot be held to be vitiated by mala fides. Mere suspicion or conjecture, without substantive proof, is insufficient to warrant judicial interference.

Admittedly, the petitioner holds a transferable post and is liable to be posted at any location within India, as per the terms of his service. It is also not in dispute that the petitioner has accepted the transfer order and joined his new assignment accordingly. While implication in a criminal case and subsequent detention in judicial custody may give rise to departmental actions such as suspension or disputes regarding service-related benefits, in the absence of cogent and convincing material, it is difficult to arrive at a definitive conclusion that such incidents were the motivating factors behind the issuance of the transfer order.

There can be no doubt as to the binding nature of the precedents cited by Mr. Karmakar. However, the decisions cited by Mr. Karmkar are distinguishable on facts. It is well settled that a judgment is an authority only for what it actually decides, and even a slight variation in facts can significantly impact the decision-making process. A precedent cannot be mechanically applied without first

examining whether the factual matrix and legal context of the cited case fit in with the facts and circumstances of the case at hand.

Therefore, I do not find any justification to accept the petitioner's contention. The petitioner has failed to produce any rule or regulation establishing that the employer is under a legal obligation to make financial provisions to enable an employee to attend a proceeding before a Court of law.

In view of the above, the writ petition stands dismissed. Consequently, the application, if any, filed in connection with the writ petition is also dismissed. However, there shall be no order as to costs.

(PARTHA SARATHI CHATTERJEE, J.)

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