

(2005) 05 OHC CK 0024
In the Orissa High Court
Case No : Writ Petition (C) No. 6135 of 2003

Ajay Kumar Das

APPELLANT

Vs

State Bank of India and Others

RESPONDENT

Date of Decision : 10-05-2005

Acts Referred:

Constitution of India, 1950 — Article 21

Citation : (2005) 100 CLT 8

Hon'ble Judges : N. Prusty, J; I.M. Quddusi, J

Bench : Division Bench

Advocate : R.K. Mohanty, D.K. Mohanty, P.K. Rath, S.N. Biswal, A.P. Bose, P.K. Satpathy and B.K. Mohanty, for the Appellant; P.V. Ramdas and P.V. Balkrushna, for the Respondent

Judgement

I.M. Quddusi, J.—The instant Writ Application has been filed by the petitioner who is a Branch Manager in the State Bank of India Against his transfer from Pattamundai (Bhubaneswar Module to Berhampur Module) under Inter Module Annual Transfer Exercise 2003, passed by the Order dated 20.6.2002 inter alia on the ground that he is a serious cardiac patient and is entitled to the benefit laid down in Clause 7.1.1 of the Policy of Transfer of S.B.I. Officers. He is having heart ailments. The State Bank of India made a circular transfer policy, Paragraph 7.1.1 of which is as under:

"7.1.1. In cases where an officer or a member of his/her family, i.e., spouse, children or dependent parents, is suffering from a sickness of serious nature which would require hospitalization, admission in clinics/nursing home and other special treatment, facilities for which are not available at the centre where such facilities are available which may be considered on merits and administrative convenience."

2. It may be noticed here that the State Bank of India bears expenses of medical treatment of an officer/employee posted in their establishment and their dependants.

3. The earlier Writ Application No. OJC 325/2000 was disposed of directing the Bank to refer the Petitioner's case to the Medical Board. The Cardiologist examined the petitioner and considering the seriousness of the case directed evaluation in the SCB Medical College Hospital, Cuttack. The case of the petitioner was referred by the Bank to the Medical Board. He was examined the professor and Head of the Department Cardiologist, SCB Medical College, Cuttack. After medical check up of the petitioner, Chief Medical Officer, Bhubaneswar sent his report on the basis of medical examination done by the Medical Board headed by the Professor and HOD of Cardiology, SCB Medical College Hospital, Cuttack. According to his report dated 29.9.2000 (Annexure-9), the Chief Medical Officer, Bhubaneswar reported that the Professor and HOD Cardiology, SCB Medical College, Cuttack has given a note dated 4.7.2000 (Annexure-8), which was placed before the Board and the said date and as per his information, Shri Das, Petitioner is a patient of CAD, Effort Angina (Atypical), Type IIB, Hyper Lipidemia with moderate positive TMT. He has also been advised for regular check up in Cardiology OPD and to avoid physical strain.

4. Mr. Ram Das Learned Counsel for the Bank submitted that the petitioner has been posted at Koraput where medical facility is available within 10 kms, which is inside the Hindustan Aeronautics Ltd. Premises (H.A.L. in short). But he is unable to apprise this Court as to whether speciality for treatment/specialist in heart disease is available there or not.

5. We may draw our attention towards Article 21 of the Constitution of India where right to life has been given. In the case of Dr. B.L. Wadehra Vs. Union of India and others, the Hon'ble Apex Court has held that right to life under Article 21 of the Constitution of India includes right to enjoyment of pollution free water and hence on the similar terms right to life under Article 21 of the Constitution of India includes right to get minimum emergency treatment.

6. In the facts and circumstances of the case, the opposite parties themselves referred the matter to the Medical Board and after obtaining report of the Medical Board there is no doubt that the petitioner is seriously suffering from heart disease. Therefore, it requires that he should be posted at a place where emergency treatment of heart diseases/Specialists in Cardiology are available so that the petitioner may be able to get minimum treatment in case of any problem, which may be emergent in nature.

7. In view of the above facts and circumstances of the case at this stage we are not inclined to issue any direction regarding posting of the petitioner. But it is observed that the petitioner should join at his new place of posting and should move a representation highlighting all his grievances before the concerned opposite party/ parties and if such a representation is moved, we hope that the authorities concerned will not violate the guidelines with regard to the posting of officer suffering from sickness of serious nature and will not ignore the observation of this Court as made above including the aspect of Article 21 of the Constitution of India and will make an endeavour to post the petitioner in a place

where specialty for regular check up in Cardiology OPD and emergency treatment are available. Needless to mention here that in the mean time the petitioner has attained the age of 55 years. The representation of the petitioner shall be disposed of as expeditiously as possible preferably within a period of two months from the date of receipt of our order.

8. The Writ Application is accordingly disposed of, with the above observation/direction.

No order as to costs.

N. Prusty, J.

9. I agree.