

(2022) 01 GUJ CK 0094
In the Gujarat High Court

Case No : R/Special Civil Application No. 12845 Of 2020

Dipankar Diwakar Katoch S/O D S Katoch APPELLANT

Vs

State Bank Of India, Represented By The Chief General Manager RESPONDENT

Date of Decision : 25-01-2022

Acts Referred:

Citation : (2022) 01 GUJ CK 0094

Hon'ble Judges : Biren Vaishnav, J

Bench : Single Bench

Advocate : Anand L Sharma, Mehul M Mehta, Aishwarya R Chirla, Paritosh R Gupta

Final Decision : ?Dismissed

Judgement

Biren Vaishnav, J

1. Heard Mr.Anand Sharma learned advocate for the petitioner and Mr.Paritosh Gupta learned advocate for the respondent.

2. Under challenge in this petition is the order dated 01.09.2020 passed by the respondent transferring the petitioner from Baroda to Bhanvad,

Porbandar.

3. Mr.Anand Sharma learned counsel for the petitioner would submit that the career growth of the petitioner itself is frustrated on account of the

details narrated in the petition inasmuch as, in past five years, the petitioner has been transferred six times and which transfers have happened over

significant geographic distances without completion of normal tenure prescribed under the policy.

4. Intervening circumstances inasmuch as petitioner's father's heart surgery, the undue stress that has been caused on account of such

transfers and on which ground the order of transfer is challenged. Frequent transfers, according to Mr.Sharma amount to arbitrary discharge of powers and are not routed and sound rational.

5. Mr.Sharma would submit that the transfer policy is not applicable in case of employee who has been promoted to MMGS-2 on 24.04.2020 and the same policy applies only to scale 1 and scale 2. Reliance is placed on a decision in case of Subramaniym and others v. Union of India and others

reported in 2013 15 SCC 732 emphasizing the minimum tenure of service at a place be ensured. Reliance is also placed on the decision in case of Dr.

Nagorao Shivaji Chavan v. Dr. Sunil Purshottam Bhamre and others reported in AIR 19 SC 189.

6. Mr.Gupta learned counsel for the bank would draw the attention of the Court and reiterate the submissions made in the affidavit in reply justifying

the immediate transfer of the petitioner from Vadodara to Bhanvad within a period of three months. Paragraphs 15 to 17 of the said affidavit read as

under:

15. With reference to para 5(2) of the petition, it is denied that action of the respondent authorities is illegal and arbitrary and the

petitioner is subjected to frequent transfers as alleged. So far as reference is made to transfer policy, it is submitted that the same has been

followed for the larger public interest of contingencies arising on account of manning of various Branches of all the networks within the

Ahmedabad circle as per the requirement and effective management and administration of banking functions of Respondent Bank. It is

denied that purpose of transfer policy is frustrated as alleged. It is submitted that interest of public at large particularly the customers of the

Bank is relevant factor while considering the requirement of manning different Branches within the circle. So far as reference is made to

petitioner posted at different Branches within the same Module coming under the same Network, the same has been decided as per the

requisite needs for proper administration of different Branches coming under the same Region and same has been decided by the then

Regional Office who is responsible for proper management and administration of different branches coming under it. With respect to his

transfer to SMECCC Surat from Atul Branch, it is submitted that the aforesaid

transfer was made by the Administrative office of the Module as per its requirement. It is reiterated as stated herein before that Module is above Region in the organizational setup and there are several regions under one module including the Branches that are under direct control of the Module. It is submitted that SMECCC, Surat, functions under the direct control of the Module. It is not correct to say that the past transfers of the petitioner have been over significant geographic distance without completion of normal tenure prescribed under the transfer policy as alleged. All transfer effected are within the transfer policy. It is denied that impugned transfer order is contrary to transfer policy and requires interference as alleged. Rest of the contentions are categorically denied.

16. With reference to para 5(3) of the petition, it is denied that there is any unhappy effect on petitioner's personal health and members of his family are also put under undue stress as alleged. Request for inter circle transfer will be dealt with as and when his turn comes in the waiting list of such inter circle transfer. It is submitted that the inter circle policy is formulated by the Corporate Center of the Bank and therefore beyond the scope of area of operation of management of Ahmedabad Circle. It is denied that at Banvad the petitioner and or his parents will not have access to kind of medical care as they received at Mumbai, Surat and Vadodara as alleged. It is denied that there is any constant and arbitrary transfer orders forcing the petitioner in uncomfortable position as alleged. It is denied that there is any difficult back to back transfer as alleged. It is submitted that so far as the issue of medical ground of the petitioner's father is concerned, while deciding the representation, the petitioner was given further opportunity to submit necessary documents in that regard and after submission of documents by the petitioner, the respondent bank has obtained opinion of the Bank's Medical Officer and all these relevant facts were taken into consideration while deciding the representation of the petitioner. So far as reference is made to current Corona virus pandemic concerned, it is submitted that effect and spread of the same, the place to which the petitioner is now transferred as Branch Manager is much less compared to other Metropolitan areas mentioned by the

petitioner in this para.

17. With reference to para 5(4) of the petition, it is denied that the impugned order has not been acted upon by the Bank and the petitioner

is allowed to continue at Vadodara as alleged. It is denied that there is alleged frequent transfer and / or any alleged arbitrary discharge of

powers and / or any alleged irrational decisions as alleged. So far as requirement of petitioner from Vadodara to Bhanvad i.e. from

Network II to Erstwhile Network III is concerned, the reasons have already been stated herein above in detail and same is reiterated. The

petitioner is a senior with regard to Network stay and is Scale III officer and there is requirement of filling up critical vacancy in scale III

such Branch Officer at Bhanvad Branch which is at present not manned by regular Branch Manager. It is denied that there is any breach

of alleged fundamental right of the petitioner as alleged.â??

7. Perusal of the affidavit together with the decision made on the representation would indicate that it is a well settled position of law that in absence

of any mala-fide, transfer of employee from one place to another is a matter of administrative discretion and under the realm of the authoritiesâ??

domain.

8. In absence of any allegations of mala-fide, merely because the transfer has occurred over the past five years, would itself not make the order bad.

9. In view of the above, the petition is dismissed. Notice is discharged.