
(2009) 10 MAD CK 0193

In the Madras High Court

Case No : Writ Petition No. 20336 of 2009 and M.P. No's. 1 and 2 of 2009

G. Shanmugam

APPELLANT

Vs

The Chief General Manager, The General Manager (NW-1)
and The General Manager (NW-2) State Bank of India

RESPONDENT

Date of Decision : 28-10-2009

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (2009) 10 MAD CK 0193

Hon'ble Judges : K. Chandru, J

Bench : Single Bench

Advocate : L. Chandrakumar, for the Appellant; P. Sukumar, for the Respondent

Final Decision : Allowed

Judgement

K. Chandru, J.—The petitioner, who is working as a Chief Manager in the first respondent State Bank of India, filed this writ petition, seeking to challenge an order, dated 17.09.2009, wherein and by which he was transferred from Chief Manager, FPLB, Chennai to the Chief Manager, RCPC, Thiruvavur by an office order No. 2009/24.

2. On coming to know that such an order is going to be issued, the petitioner sent a representation, dated 16.09.2009, stating that he would like to have retention at Chennai itself in order to take care of his health and to take care of his family. Since he was having only nine months' service and was to retire in June, 2010, the transfer will be an unnecessary burden on him. After the receipt of the order, the petitioner once again sent a representation, dated 20.09.2009 followed by a reminder, dated 22.09.2009. Since there was no reply, the petitioner moved this Court.

3. On notice from this Court, the respondents have filed a counter affidavit, dated 15.10.2009. In the counter affidavit, it was stated that it was a routine transfer. The State Bank of India Officers Service Rules, 1992 clearly stipulates

that every officer is liable for transfer to any officer or branch of the bank or to any place or deputation to any other origination in India. With reference to a request for cancellation of transfer, in paragraphs 5 and 6 of the counter, it was stated as follows:

5. The petitioner was posted earlier at Chennai from June 2006 and he continued in service in Chennai till the order of transfer dated 17.09.2009 came to be passed. The petitioner was also relieved in pursuance of the transfer order from the existing place and another person has joined in his place. The petitioner was originally transferred to Tirunelveli by order dated 04.07.2009 and on his representation he is posted to Thiruvavarur after taking consideration of his representation. The transfer order is related to 26 persons and there is no vacancy at present at Chennai either to accommodate him or retain him at same place. The petitioner is grade IV Officer and with regard to grade IV offices who are Senior Management level posting have to be given according to their grades which are limited in nature. If one person has to be retained in one particular place the above mentioned list has to be changed. Since already the department has taken sympathetic view by transferring to Thiruvavarur after cancelling the posting to Tirunelveli which place is not far of Chennai. Further it is not the case of the petitioner he is a native of Chennai and he is to take care of aged parents being only son. The grounds on which the petitioner seeks to retain at Chennai is that he is suffering from persistent vertigo which is causing giddiness and nausea. He can take the treatment at any place. Thiruvavarur is nearer to both Thanjavur and Kumbakonam. The other ground is that his wife is suffering from High Blood Pressure. This has been mentioned in the affidavit only whereas in the representation dated 16.09.2009 he has mentioned that his wife is suffering from ENT and her surgery is scheduled shortly, for this also no necessity to stay in Chennai for longer duration.

6. The last ground which the petitioner alleged is that his daughter is living with him along with her child aged 2 years. It is not a valid or bonafide ground for the petitioner for retention in the same place.

4. The Supreme Court vide its decision in State of U.P. and Others Vs. Siya Ram and Another, observed as follows:

The High Court while exercising jurisdiction under Articles 226 and 227 of the Constitution of India had gone into the question as to whether the transfer was in the interest of public service. That would essentially require factual adjudication and invariably depend upon peculiar facts and circumstances of the case concerned. No Government servant or employee of a public undertaking has any legal right to be posted forever at any one particular place or place of his choice since transfer of a particular employee appointed to the class or category of transferable posts from one place to other is not only an incident but a condition of service, necessary to in public interest and efficiency in the public administrative. Unless an order of transfer is shown to be an outcome of mala fide exercise or stated to be in violation of statutory provisions prohibiting any

such transfer, the Courts or the tribunals normally cannot interfere with such orders as a matter of routine, as though they were appellate authorities substituting their own decision for that of the employer/management, as against such orders passed in the interest of administrative exigencies of the service concerned. This position was highlighted by this Court in *National Hydroelectric Power Corporation. Ltd. v. Shri Bhagwan*.

5. Further, the Supreme Court in yet another decision in *State of U.P. and Others Vs. Gobardhan Lal*, observed as follows:

It is too late in the day for any Government servant to contend that once appointed or posted in a particular place or position, he should continue in such place or position as long as he desires. Transfer of an employee is not only an incident inherent in the terms of appointment, but also implicit as an essential condition of service in the absence of any specific indication to the contra, in the law governing or conditions of service. Unless the order of transfer is shown to be an outcome of a mala fide exercise of power or violative of any statutory provision (an Act or rule) or passed by an authority not competent to do so, an order of transfer cannot lightly be interfered with as a matter of course or routine for any or every type of grievance sought to be made. Even administrative guidelines for regulating transfers or containing transfer policies at best may afford an opportunity to the officer or servant concerned to approach their higher authorities for redress but cannot have the consequence of depriving or denying the competent authority to transfer a particular officer/servant to any place in public interest and as is found necessitated by exigencies of service as long as the official status is not affected adversely and there is no infraction of any career prospects such as seniority, scale of pay and secured emoluments. This Court has often reiterated that the order of transfer made even in transgression of administrative guidelines cannot also be interfered with, as they do not confer any legally enforceable rights, unless, as noticed supra, shown to be vitiated by mala fides or is made in violation of any statutory provision.

6. In the light of the above, this Court is not inclined to interfere with the order of transfer issued in the normal course of business. There is no mala fide alleged against the respondents.

7. In the light of the above, this writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions also stand dismissed.