

(1982) 08 CAL CK 0017
In the Calcutta High Court
In Re: Sarashi Ranjan Dhar

Date of Decision : 04-08-1982

Acts Referred:

Citation : (1982) 08 CAL CK 0017

Hon'ble Judges : G.N. Ray, J

Bench : Single Bench

Advocate : N.R. Chatterjee and Muku Chatterjee, for the Appellant; Sundarananda Pal, for the Respondent

Final Decision : Dismissed

Judgement

G.N. Ray, J.—Against an order of transfer of the petitioner as referred to in the Movement Order since annexed to the writ petition, the instant writ petition has been moved with notice to the respondents and Mr. Pal has appeared for the respondents. It appears that on May 19, 1982, the Director General of Inspection has formulated a policy regarding posting and transfer in the DGI Organisation and it appears from the said policy decision with-it is Annexure A to the writ petition that in recent past complaints and abnegations against individuals and groups working in a Government establishments have been on the increase and sometimes such complaints are raised by people in the organisation itself and sometimes by people outside, obviously at the instigation of the former. Such letters addressed to various levels of the Ministry and the DGI Organisation have not either helped to improve the efficiency of the organisation or its image. Instead, such letters have resulted in impairing the efficiency of the DGI Organisation and tarnishing its image. An analysis of this trend leads to the conclusion that such letters are originated by vested interests which in turn are caused by individuals remaining in the same station for long period of time. The Recruitment Rules render most categories of the DGI liable to serve anywhere in India." It has also been held that periodical rotation is particularly desirable in the DGI Organisation where the Organisation has dealing with trade. It has been also observed that such rotation will also expose officers and staff to different areas of work and experience, which in turn will help in their development to the

mutual benefit of the Organisation and individual. It appears from the said Policy decision that officers (Civilian, Military, Non gazetted - both technical and scientific) who have been employed in executive jobs dealing directly or indirectly with trade inspections should be transferred from one station to another after five years tenure. As far as possible, such posting should be issued in April/May of each year so that moves can take place without disrupting the education of children during the Summer vacation period. It appears that on the basis of the said policy decision the order of transfer was passed against the petitioner. The petitioner, however, contends that the said policy decision has cast a stigma on the integrity of the petitioner and similar other employees serving the DGI Organisation and the petitioner has also contended in paragraph 14 of the writ petition that if there is any Vigilance Report against an officer such report must be conveyed to the officer and his view must be obtained before conclusion is drawn. The petitioner, therefore, contends that if there is any Vigilance Report against the petitioner the same is got to be disclosed to the petitioner and his views are required to be taken before any action can be taken and or an order of transfer can be made against the petitioner on the basis of such Vigilance report. Mr. Pal the learned Counsel appearing for the respondents has, however, submitted on instruction that the order of transfer has not been passed against the petitioner on the basis of any Vigilance Report against him but on the basis of a general policy decision that employees serving in the DGI Organisation for more than five years should be transferred as a routine measure on rotation basis and the petitioner having served at Calcutta for more than 25 years and being the oldest employee in Calcutta Circle, the petitioner has been transferred in terms of the said policy decision and the order of transfer has not been passed to penalise him or on the basis of any specific report of corruption or mal Practice received against him. It may be noted in this connection that an employer has an inherent right to frame his policy as to how the employees "will be utilised in different units and under the service condition, the petitioner can also be transferred to any other unit outside Calcutta.

2. The policy decision which is Annexure "A" to the writ petition does not appear to be perverse unreasonable or capricious for which any action is called for by the writ Court, it may be noted that the policy of transfer of employees serving DGI Organisation after a tenure of five years has been taken also to expose officers and staff to different areas of work and experience with an expectation that such transfer in turn would help in their development to the mutual benefit of the organisation and the individual, it should also be noted in this connection that so long any policy or any action of the Government does not infringe the provisions of Constitution or any statutory provisions, the Court cannot embark upon the policy decision of the Government. The wisdom of a policy regarding administrative set up must be left to the discretion of the management and such wisdom is not justiciable in a court of law. The court cannot sit on the chair of the administration and decide as to whether or not a particular policy is wise or some other policy should be followed. The question of interference by the court

arises only when any policy decision violates the constitutional guarantee and/or any statutory provisions and or such policy is wholly capricious and devoid of any reason whatsoever. As the learned Counsel for the respondents has specifically stated on instruction that the impugned order of transfer of the petitioner has been made as a routine measure on the basis of the aforesaid policy decision taken by the. Director General of Inspection and as it does not appear that such action has been taken in a colourable exercise of power only for the purpose of victimising by the petitioner, no action is called for by the writ court and the writ petition is, therefore, not entertained and is dismissed without however any order as to costs.