

(2020) 06 PAT CK 0093

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 14821 Of 2019

Md. Shahjahan

APPELLANT

Vs

State Of Bihar And Others

RESPONDENT

Date of Decision : 11-06-2020

Acts Referred:

Constitution Of India, 1950 — Article 226

Citation : (2020) 06 PAT CK 0093

Hon'ble Judges : Madhuresh Prasad, J

Bench : Single Bench

Advocate : Sanjeev Kumar, Kaushlendra Kumar Sinha

Final Decision : Dismissed

Judgement

Madhuresh Prasad, J

The matter has been listed today for consideration through Video Conferencing in view of the Nationwide Lockdown on account of the Covid 19 pandemic.

The learned counsels are appearing and making submissions from their residence. The Court Master and Secretary are also part of this virtual court proceedings from their homes, all with the aid of audio visual technology.

Heard learned Counsel for the petitioner and the learned Counsel for the Bank.

The petitioner has assailed the transfer order dated 01.06.2019 in the instant proceeding, whereby and whereunder he has been transferred from the post of Deputy Manager at Sahajitpur Branch of the Bank to be posted as Deputy Manager at at Regional Branch Office, Bettiah.

Learned Counsel representing the petitioner places reliance on the Circle Transfer Policy communicated to all branch offices on 16.05.2018 (Annexure 7). Referring to Clause 6.1 of Annexure 7 he submits that he could not have been transferred before completing five years in Regional Business Office at a stretch. It is also submitted that since he had filed a representation against his transfer, the

authority could have relieved him only after disposing of his representation.

Clause 6.1 of the Circular reads as follows:

"The maximum period for which an officer can be posted in one Region at a stretch will be restricted to 5 years provided such stay does not obstruct the career path of the official. Thereafter the official will be transferred to other Region of the same Zone."

From 15.01.2019 up till 25.03.2019 the petitioner has pursued his request for transfer from his posting at Sahajitpur Branch of the State Bank Of India. The four communications in this regard (Annexures 12, 13, 14 and 15) make it clear that the petitioner was on inimical terms with someone and was requesting the Bank authorities that he may be transferred from Sahajitpur Branch fearing consequences arising out of the animosity. Acting on the said request, the petitioner was transferred from Sahajitpur Branch to Regional Business Office, Bettiah on 22.04.2019 (Annexure 9). The petitioner thereafter represented before the authority that he had been assigned election duty in the general election. In view of such representation, the transfer of the petitioner dated 22.04.2019 was stayed under order dated 26.04.2019 (Annexure 11). He therefore continued at Sahajitpur Branch.

It would be relevant to record here that Sahajitpur falls within the Regional Business Office, Chapra. The petitioner has been posted at branches within the Regional Business Office, Chapra from 29.09.2014 till issuance of the transfer order dated 01.06.2019 (Annexure 1). The order of transfer dated 01.06.2019 is nothing but reiteration of the earlier transfer order dated 22.04.2019, which in the meantime had been stayed on account of petitioner's deputation in the electoral process of the 2019 general election.

Learned Counsel for the State Bank of India submits that bare perusal of Clause 6.1 makes it abundantly clear that the same provides the maximum period for which an officer can be posted in one Region at one stretch as being five years. Such prescription of maximum period would not create a right in favour of the employee to stay in a Regional Business Office for five years. By providing the maximum, the Circular lays down that in any case it cannot be more than five years. It is not that the policy gives a right to the employee to claim that he cannot be transferred before five years. Further the petitioner has himself made repeated requests for being transferred from Sahajitpur on account of his inimical terms with some local person there, and expressing threat to his life, based on such circumstances. Out of maximum five years prescribed in Clause 6.1 in the transfer policy, the petitioner has already served in the Regional Business Office, Chapra for four and half years. It is also submitted that administrative exigencies require the petitioner to serve in branches/offices falling under Regional Business Office Bettiah.

Considering the aforesaid facts and the rival submissions, this Court is in agreement with the submissions advanced by the learned Counsel for the State

Bank of India. The Circle Transfer Policy does not prescribe a minimum period of five years. In absence of any such prescription, the petitioner cannot claim that he cannot be transferred within the minimum period (five years). On the contrary, he has continued at the Regional Business Office, Chapra for about four and a half years out of the maximum period of five years. He has also made requests for his transfer from Sahajitpur Branch on account of his express threat to life due to enmity with some local person there. The authorities have stated in the counter affidavit that there was a requirement to post the petitioner at Bettiah due to administrative exigency.

The law is very clear that transfer is an incidence of service. The petitioner has not made out a case that there is violation of any mandatory provisions in the matter of his transfer, nor has he alleged any specific malafide against any particular person. There is also no right in favour of the petitioner to continue at the place of posting at Sahajitpur, or to seek a posting of his choice in the same Branch or in the same Region.

In the circumstances, there is no occasion for this Court to interfere with the petitioner's transfer order in exercise of power of judicial review under Article 226 of the Constitution of India.

The writ petition is devoid of merit and the same is dismissed.