
(2020) 06 DEL CK 0174

In the Delhi High Court

Case No : Civil Writ Petition No. 3775 Of 2020

Rajkumar Verma

APPELLANT

Vs

Chief General Manager, State Bank Of India & Anr

RESPONDENT

Date of Decision : 29-06-2020

Acts Referred:

Citation : (2020) 06 DEL CK 0174

Hon'ble Judges : Jyoti Singh, J

Bench : Single Bench

Advocate : Yogesh Kumar, Harkesh Parashar, Rakesh Munjal, Anil Kumar Sangal, Siddharth Sangal

Final Decision : Disposed Of

Judgement

Jyoti Singh, J

Hearing has been conducted through Video Conferencing.

CM APPL. 13511/2020

1. Exemption allowed, subject to all just exceptions.

2. Application stands disposed of.

CM APPL. 13512/2020

3. In view of the reasons stated in the application, the same is disposed of with a direction to the Applicant to pay the requisite Court Fee and place on record duly attested Affidavits, within a period of one week of lifting of the lockdown.

4. Application stands disposed of.

W.P.(C) 3775/2020 & CM APPL. 13510/2020

5. Present Writ Petition has been filed by the Petitioner, challenging the Transfer

Order dated 18.05.2020 whereby the Petitioner has been transferred from Dehradun to Bhopal Circle. A direction is also sought to continue the services of the Petitioner within Delhi Circle, as per the State Bank of India

Inter Circle Transfer Policy dated 01.01.2020.

6. Learned Counsel for Petitioner points out that the impugned transfer order is in the teeth of the aforesaid Transfer Policy, inasmuch as there cannot be an inter-circle transfer.

7. Learned counsel has drawn the attention of the Court to Clause 9.5, which deals with the Transfer Policy for Specialist Officers. Relevant para is

as under:

9.5 Transfer Policy for Specialist Officers

Keeping in view the requirements of the Bank in respect of the specialized expertise provided by Specialist Officers and to facilitate their

career development, the following guidelines have been formulated for transfer of officials in the Specialist Cadre

i. Tenure: The maximum period of stay of specialist officers at any one centre / office will be fixed at 7 years.

ii. Scope of transfer:

a) Transfer of all specialist officials in SMG Scales will be effected on all India basis.

b) While transfer of officials in JMG/MMG Scales will be effected within the parent Circle, should the exigencies of service so warrant,

such officials will be subjected to transfer outside the Circle, in case no other positions are available within the same Circle or in case of

transfers to Corporate Centre.

iii. Authority Structure for transfers:

a) Transfer of officials in SMG Scales will be effected by Corporate Centre.

b) Transfer of officials in JMG/MMG Scales posted at Corporate Centre Departments/establishments and inter-circle transfers will be

effected by the Corporate Centre.

iv. Transfer of officials in JMG and MMG Scales will ordinarily be effected by the Circle Authorities on the basis of the laid down norms.

v. To mitigate hardship to the officials, transfers will be effected to coincide with the academic year to the extent possible.

vi. Officers who have crossed 55 years of age shall ordinarily be exempted from the purview of the policy.

Notwithstanding the provisions as above, the Bank would not be precluded from effecting transfers of officials any time earlier to any place

at its discretion, keeping in view the exigencies of service.â??

8. It is argued that under Clause 9.5(ii)(b) of the policy, transfers of Officers in JMG/MMG Scales can only be effected within the Parent Circle. It is

pointed out that Petitioner is in the MMG Scale and therefore, could not have been transferred to Bhopal, which is outside the Parent Circle.

9. Learned Counsel further points out that in the last 7 years, he has been transferred 5 times and has never had a static tenure. Learned Counsel

draws the attention of the Court to an order passed by the Punjab & Haryana High Court in Sant Singh vs. The State Bank of India and Others, CWP

No.11627 of 2017, decided on 20.05.2019, wherein with respect to the Respondent/ State Bank of India, a similar Transfer Order was quashed.

Relevant part of the order reads as under:

â??Heard.

For the reasons stated in the writ petition, the same is allowed. The impugned transfer order 26.04.2017 (Annexure P- 5) is quashed with

liberty to the respondents to pass fresh transfer order of the petitioner within Chandigarh circle, in terms of Transfer Policy Annexure P-

8.â??

10. Learned counsel has also drawn the attention of the Court to another Order passed by the said Court in Anil Ahlawat vs. State Bank of India and

Others, CWP No. 7671/2020, dated: 02.06.2020, where a Order passed by the State Bank of India has been stayed by way of Interim Order.

Relevant part of the Order in Anil Ahlawat (supra) reads as under:

â??The Court has been convened through video conferencing due to Covid-19 pandemic.

Counsel for the petitioner has placed reliance upon the order dated 25.05.2017 (Annexure P-5) order dated 20.05.2019 (Annexure P-6)

passed by coordinate Bench of this Court in CWP No.11627 of 2017, Sant Singh Vs. State Bank of India and others and has submitted that

he is situated in a similar position as the petitioner in the said matter.

Notice of motion for 21.07.2020.

Process Dasti as well.

As an interim measure, the petitioner will not be compelled to proceed to Hyderabad and will be accommodated either at Mohali or at nearby station.â??

11. Mr. Munjal, Learned Senior Counsel, appearing on Advance Copy on behalf of the Respondent submits, at the outset, that there is a suppression of fact by the Petitioner, in the present Petition. He submits that in April 2020, Petitioner has been promoted as Deputy Manager (Security) in the Grade of MMG-II. He further points out that before the promotions are notified, officers are asked to give an Undertaking/Consent that they would be willing to be transferred to any part of the country. He points out that the Petitioner had accordingly given an Undertaking to be transferred, anywhere in India, which is not even mentioned in the petition.

12. Learned Senior Counsel relies on Clause 9.5(ii)(b), more particularly, the words, â??should the exigencies so warrant, such officials be subject to transfer outside the Circleâ?, and argues that the Clause on which the Petitioner relies is conditional and has a caveat, that in case of exigency of service, transfer of an official can be made outside the Parent Circle.

13. Attention is also drawn to the last paragraph of the same very policy which reads as under:

â??Notwithstanding the provisions as above, the Bank would not be precluded from effecting transfers of officials any time earlier to any place at its discretion keeping in view the exigencies of service.â??

14. The argument in sum and substance is that the service of the Petitioner carries All India Service liability and the exigencies of service override all other considerations. Learned Senior Counsel also points out that, this is a routine chain transfer where a number of officers have been transferred from one part of the country to another and in case one transfer is stayed, the entire chain would be affected. He further submits that being the Deputy Manager (security), Petitioner is concerned with the security of the Bank, and looking at the exigency of service and the requirement of the Petitioner at Bhopal, a considered decision has been taken to post him to Bhopal. It is in the domain of the Respondent to decide the postings of its

employees, keeping the exigencies in mind and is purely an administrative decision.

15. I have heard learned Counsel for Petitioner as well as learned Senior Counsel for Respondent.

16. Law on the scope of interference by Courts in matters of transfer / posting is no longer res integra. Supreme Court in Shilpi Bose (Mrs.) and Ors.

vs. State of Bihar and Ors., 1991 Supp (2) SCC 659; N.K. Singh vs. Union of India and Ors. (1994) 6 SCC 98; State of UP and Anr. Vs. Siya Ram

and Anr., (2004) 7 SCC 405; and National Hydroelectric Power Corpn. Ltd. v. Shri Bhagwan, (2001) 8 SCC 57, has held that there should be minimal

interference by Courts in matters relating to posting of employees. The limited grounds on which the Court can interfere are violation of mandatory

Statutory Rules or terms of the Transfer Policy or on the ground of malafide.

17. Ground of malafide is neither pleaded nor argued by learned Counsel for the Petitioner. Insofar as the ground of violation of the terms of the

Transfer Policy is concerned, it is rightly contended by learned Senior Counsel for Respondent that the Policy itself envisages an exception to the right

of the employee to be transferred within the Parent Circle. The exception being exigency of service would undoubtedly override all other

considerations.

18. Appointment and post of the Petitioner carries an All India Service liability and he can be transferred by the Respondent in case there is an

Administrative requirement. It is really the domain and the prerogative of the Respondent to judge the exigency of service and decide which employee

is required to be posted at what place. It is not for the Court to interfere in this decision. The Petitioner has himself given an undertaking to be

transferred in case of requirement of the Respondent, at the time of his promotion, as Deputy Manager (Security) in the scale of MMG-II and cannot

be permitted to resile from the same.

19. A Government servant holding a transferrable post cannot claim a vested right to remain posted at a particular place. As held by the Supreme

Court in Shilpi Bose (Supra) if the Courts continue to interfere with day-to-day transfer orders, there will be complete chaos in the administration

which would not be conducive to public interest. Transfer is not only an incident but a condition of service and the Courts should be reluctant to

interfere in the interest of efficiency in public administration.

20. This Court does not find merit in the plea of the Petitioner that in a span of 7 years, he has been posted 5 times. Perusal of the Table given by the

Petitioner at Page 18 of the Petition is an indicator that the 4 postings were all within the Delhi Circle and the Petitioner was only transferred from one

office to another.

21. This Court finds no reason to interfere with the impugned Transfer Order.

22. At this stage, learned counsel for Petitioner submits that the impugned Transfer Order has been suddenly issued and in the present adverse

circumstances on account of the Pandemic COVID-19, it would be difficult for the Petitioner to immediately join his new place of posting. It is thus

prayed that a period of 15 days be given to the Petitioner, as joining time.

23. In my view, this request of the Petitioner, in the prevailing circumstances, is reasonable. Petitioner is permitted to join his new place of posting at

Bhopal, within a period of 15 days from today.

24. Petition, alongwith the accompanying Application is disposed of, in the above terms.