
(2020) 09 GAU CK 0015
In the Gauhati High Court
Case No : Writ Petition (C) No. 3307 Of 2020

Rakesh Kumar

APPELLANT

Vs

Food Corporation Of India And 3 Ors

RESPONDENT

Date of Decision : 14-09-2020

Acts Referred:

Citation : (2020) 09 GAU CK 0015

Hon'ble Judges : Achintya Malla Bujor Barua, J

Bench : Single Bench

Advocate : N Dutta

Final Decision : Disposed Off

Judgement

1. Heard Mr. N. Dutta, learned senior counsel for the petitioner. Also heard Mr. P.K. Roy, learned counsel for the respondent Food Corporation of India (FCI).

2. The petitioner who was serving as Assistant General Manager (Genl) in Rajasthan was transferred and posted in the District Office, Tezpur as Area Manager with additional charge of Manager D.O. North Lakhimpur vide office order No. 13/2018/E.I dated 28.03.2018. The petitioner accordingly, joined at Tezpur on 14.05.2018. Thereafter, by an order Estt.3(1)/2019/RO Assam/Cat-I/TP dated 29.01.2019 the petitioner was transferred to the Regional Office of the FCI at Guwahati.

3. Subsequent thereto, by the order dated 17.03.2020 of the Assistant General Manager the petitioner was transferred and posted at RO(PB) Chandigarh. The petitioner relies upon the Comprehensive Transfer Policy Guidelines of the FCI circulated vide Circular No. EP-03-2014-05 dated 12.02.2014. Clause 2.6.2 and 2.6.4 of the Comprehensive Transfer Policy is extracted as under:-

2.6.2 The employees posted in such declared difficult stations from outside may be transferred to other station of his/her choice as far as possible after completion of period of one year of their effective stay at the difficult station

subject to his/her satisfactory performance and contribution to the operation of FCI in that station/region.

2.6.4. In respect of posting of Officers on transfer/promotion to North East Zone/ Difficult Stations, the tenure shall be as given below:

SL No.

Category of Officer

Tenure of posting (excluding leave period)

1.

In-service Category I Officer posted on transfer

One year

2.

In-service Category II Officer posted on promotion to Category I post

One year

3.

Directly recruited Category I Officer on their first appointment

Two year

4. A reading of Clause 2.6.4 of the Comprehensive Transfer Policy would show that in respect of category I officer posted on transfer to the North East Zone/ difficult station, the tenure shall be one year. The petitioner had in the meantime admittedly completed more than one year in the North Eastern Zone. Clause 2.6.2 provides that in the event, an employee is posted in a difficult station from outside, he may be transferred to any other station of his/her choice as far as possible after completion of the period of one year of their effective stay. In the circumstance, the petitioner made a representation dated 27.02.2019 making a request that he had completed more than one year in the North East Zone, therefore, he be transferred to a place of choice being the Regional Office at Jaipur, Rajasthan or Delhi Region or at the FCI Headquarter. The petitioner states that his aged parents are residing at Jaipur and his mother is a heart patient since long and father is also have some serious knee problem.

5. Further his wife is working with the Rajasthan Government as JSTO in the Sales Tax Department and is posted at Jaipur. Further he was transferred to Assam region only after three months of his marriage and in the meantime a son was also born.

6. Accordingly, the petitioner made a request that he be given a posting in any of the aforesaid three regions. The request of the petitioner apparently was not given consideration by the respondent authorities and without doing so, issued

the order dated 17.03.2020 and transferred him to RO (PB) Chandigarh. After the order dated 17.03.2020, the petitioner submitted another representation dated 20.03.2020 requesting a modification in the transfer order and reiterating the reason as to why he would like to have a choice place of posting as indicated above. The representation also had not given a consideration. It is stated that due to the prevailing Covid-19 Pandemic situation, the petitioner is still serving at Guwahati. In the circumstance, Mr. P.K. Roy, learned counsel appearing for the FCI on the other hand refers to Clause 2.6.6 of the Comprehensive Transfer Policy Guidelines which provides that the competent authority at the Headquarter is not debarred from effecting any transfer of any employee at any time keeping in view the administrative requirement and exigencies of service.

7. From the aforesaid circumstance, two kinds of legal rights flows in favour of the petitioner i.e. after completing one year in the North East Zone, he has a right to ask for a choice place of posting and for the purpose had requested that he be posted at any of the aforementioned three places and secondly, due to his personal inconvenience he also made a representation giving reasons as to why he chooses the aforesaid three places and the said representation had also not been given any consideration.

8. Clause 2.6.6 is a enabling provision to the respondent authority to transfer an employee to any place considering the administrative requirement and exigencies of service but nothing has been brought on record as to what was the exigency and administrative requirement to post the petitioner at Chandigarh.

9. Considering the matter in its entirety, we direct the respondent FCI to give a consideration to both the representations dated 27.02.2019 and 20.03.2020 and pass a reasoned order and till such order is passed, the transfer of the petitioner to Chandigarh be not given its effect. The requirement be done within a period of 45 days from the date of receipt of the certified copy of the order.

10. Writ petition accordingly stands disposed of.