

WA 39/2009

BEFORE

HON'BLE THE CHIEF JUSTICE MR. R.S. GARG

HON'BLE MR. JUSTICE C.R. SARMA

Judgment and Order (ORAL)

Chief Justice

Heard Mr. U. Bhuyan, learned counsel for the appellant and Mr. I . Choudhury, learned counsel for the respondents.

2. Though the matter is listed for consideration of Misc. Case No.1 104/2010 and Misc. Case No.214/2010 but with the consent of the learned counsel for the parties, the matter is taken up for final hearing.

3. The appellant being aggrieved by order of his transfer had come to this Court with a prayer that the order was result of malafide and was at the behest of the local MLA, who wanted to get rid of the appellant. The further submission was that on earlier occasion also, the appellant was transferred, against the order of said transfer, this Court interfered in the matter and thereafter, the representation was unceremoniously rejected compelling the appellant to come to this Court challenging the order of transfer submitting inter alia that the order of transfer was malafide and the grounds, which were mentioned to transfer the appellant were unnecessary. It appears that the learned Single Judge after hearing the parties came to the conclusion that the order of transfer, even if was at the behest of the local MLA, the interference of the local MLA would not contaminate the order of transfer, the learned Single Judge was also of the opinion that the order of transfer did not suffer with violation of any administrative requirement. During course of the arguments, we enquired from the learned counsel for the appellant that what is the permissible tenure of a person at a particular place, to the query learned counsel for the appellant fairly submitted that the original tenure is 4 (four) years and the said period is already over. It was, however, submitted by him that the appellant after completion of his regular tenure may be transferred but the observations made in the transfer order are likely to affect his future career, therefore, this Court should at least set aside those observations/comments made in the order of transfer.

4. The learned counsel for the respondents, on the other hand, submitted that when a transfer was to be effected before the normal tenure, special reasons should have been recorded and in the present matter, such special reasons were recorded to show for what particular reasons the present appellant was transferred from his place of posting.

5. After going through the records and hearing the parties, we are of the considered opinion that the present writ appeal can be disposed of with the following directions- (1) all adverse comments made against the present petitioner/appellant in the orders of transfer are hereby quashed/set aside; (2) the said observations shall not create any impediment in the future nor would effect the career of the present appellant and (3) the respondents would now be entitled to pass appropriate posting order and would be entitled to transfer the appellant from the place of his present posting.

6. The interim order granted earlier is vacated.

7. The appeal is disposed of. All pending Misc. Cases are also disposed of.