

\$~8 (2021)

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 30.07.2021

+ **W.P.(C) 4575/2021 & CM APPL. 15195/2021**

KRITIKA SHARMA

..... Petitioner

Through

Mr. Anwesh Madhukar, Mr. Pranjal Shekhar and Mr. Abhishek Sandiliya, Advocates.

versus

UNION OF INDIA AND ORS.

.... Respondents

Through

Mr. Shankar Kumar Jha, SPC, UOI for R-1.

Ms. Madhumita Bhattacharjee, Ms. Srija Chowdhury and Mr. Annat, Advs. for R-2/State of West Bengal.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MR. JUSTICE TALWANT SINGH

[Court hearing convened via video-conferencing on account of COVID-19]

RAJIV SHAKDHER, J.: (ORAL)

1. The petitioner, who is a part of the All India Services, had made a representation as far back as on 12.05.2015 for being transferred from the State of West Bengal (WB), where she is posted, to the State of Uttar Pradesh (UP), where her husband, who also belongs to the All India Services, is posted.

1.1. The record shows that the State of UP gave its no objection *qua* inter-cadre transfer on 08.07.2015. Respondent no. 2/State of WB, however, rejected the aforementioned request of the petitioner, in the first instance, on 12.02.2016.

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1.2. Thereafter, it appears that the petitioner preferred several representations, as regards the inter-cadre transfer. In the interregnum, according to the petitioner, several inter-cadre transfers, on the ground of Marriage, have taken place, although, the petitioner's request, in that behalf, has been denied.

1.3. Being aggrieved, the petitioner approached the Central Administrative Tribunal (in short 'the Tribunal'), via an original application, whereby it assailed the aforementioned order dated 12.02.2016.

2. The Tribunal, via the impugned order dated 22.12.2020, while allowing the petitioner's original application and setting aside the order dated 12.02.2016, has directed respondent no. 2/State of WB to consider the petitioner's request afresh in light of the judgements referred to in the impugned order, and the letter dated 28.07.2019, within a period of six weeks from the date of the receipt of the said order.

2.1. We are told by Mr. Anwesh Madhukar, who appears for the petitioner, that, there is a typographical error in the impugned order, insofar as the date of the letter is concerned. The date of the letter is 28.09.2017 [which is, erroneously, recorded as 28.07.2019, as noticed above]. This letter has been addressed by respondent no. 1/UOI to respondent no.2/State of WB. In support of this plea, Mr. Madhukar has also drawn our attention to paragraph 3 of the impugned order.

3. Pertinently, during the pendency of this writ petition, respondent no.2/State of WB has taken a decision on the petitioner's pending representation(s). This decision is embedded in the order dated 24.06.2021.

4. We may note that, it is the petitioner's contention that, in the letter dated 28.09.2017, to which, we have made a reference hereinabove, a request was made by respondent no.1/UOI to respondent no.2/State of WB, as noticed above, to reconsider the case of five officers mentioned therein, including the petitioner, and issue a no objection *qua* inter-cadre transfer on the ground of marriage.

4.1. We are also informed that, out of five officers, one officer i.e. Ms. R. Alice Vaz was relieved by the respondent no.2/State of WB.

5. In view of the fact that respondent no.2/State of WB has taken a decision on the representation of the petitioner, as noted above, vide order dated 24.06.2021, the petitioner would have to necessarily approach the Tribunal, if she seeks a remedy against the said order.

5.1. Given the fact that, the petitioner's request has been pending since 2015, the Tribunal is requested to take up the petitioner's application, if filed, on an early date, and dispose of the same, within four weeks of the application being filed by the petitioner.

5.2. Since we have not examined the matter on merits, all contentions raised by the parties will remain open for being for consideration by the Tribunal.

6. The writ petition is disposed of in the aforesaid terms. Pending application shall also stand closed.

7. In view of the fact that respondent no.2/State of WB has delayed in taking the decision in the matter, which compelled the petitioner to approach the Tribunal as well as this Court, we are inclined to direct payment of cost of Rs. 10,000/- to the petitioner. It is ordered accordingly. The cost will be paid within one week from today.

RAJIV SHAKDHER, J

TALWANT SINGH, J

JULY 30, 2021/rb [Click here to check corrigendum, if any](#)

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