

30.09.2024

**Sl. No. 05
Ct. No. 23
Srimanta**

WPA/23859/2024

Bikash Saha

-Vs.-

The Union of India & Ors.

Mr. Kazi Safiullah

...for the petitioner.

Mr. D. N. Ray,

Mr. Rajesh Kumar Shah

... for the respondent nos. 1 to 4.

The petitioner is a clerk in Assam Rifle and is presently posted at Assam Rifles Transit Camp, Salua Bazar, Rajarhat Road, Gopalpur Municipality, P.S. Airport, Kolkata – 700 136, West Bengal. The petitioner says that he has been issued a transfer order dated 31.05.2024 by which he has been posted at Nagaland. The petitioner says that he has a 12 years son who is suffering from 'Autism'. The petitioner being posted in Kolkata is able to treat his son. The petitioner says that at Nagaland or any other place in the north east where Assam Rifles have their offices there is no facility available for treating the petitioner's son or continue with the treatment he is presently undergoing. Petitioner says that he is willing to accept posting at any place where he can treat his son or continue with the treatment which his son is presently undergoing.

Ordinarily, the Courts are loath in interfering with transfer orders as the same relates to smooth functioning of the employers' organization and transfer policy is reckoned predominantly to fall in the administrative domain. However, the Courts are not precluded from interfering with the transfer order where it is tainted with illegality or it amounts to victimizing the employee. In the instant case, the petitioner has fairly submitted that he is willing to join anywhere provided he is able to treat his son. It is not in dispute that the petitioner's son is ill and is undergoing treatment.

In the aforesaid facts and circumstances, this Court directs the respondents to consider the petitioner's transfer order dated 31.05.2024 in the light of the discussion made hereinabove. The respondents shall reconsider the petitioner's transfer within a period of one month from date after giving the petitioner an opportunity of hearing and submit necessary documents. Keeping in mind the health and treatment issue of the petitioner's son. It is made clear that till a period of three weeks from the order of reconsideration of petitioner's transfer order dated 31.05.2024, the petitioner should not be compelled to join at any transferred place. No coercive action or penal measures should also be taken against the

petitioner for not joining at the transferred place in terms of the transfer order dated 31.05.2024.

Nothing further remains to be adjudicated in this writ petition. The same is accordingly disposed of.

Since I have not called for affidavit, the allegations contained in the writ petition are deemed to have not been admitted by the respondents.

(Arindam Mukherjee, J.)