

\$~25 (2021)

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

% *Decision delivered on: 27.08.2021*

+ **W.P.(C) 9190/2021**

STATE OF WEST BENGAL

..... Petitioner

Through: Ms. Madhumita Bhattacharjee, Adv.

versus

REENA JOSHI & ANR.

..... Respondents

Through: Mr. Saurabh Kirpal, Sr Adv. with Mr. Mayank Jain, Mr. Parmatma Singh, and Mr. Madhur Jain, Advs. for R-1. Ms Bharathi Raju, CGSC for R-2/UOI.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MR. JUSTICE TALWANT SINGH

RAJIV SHAKDHER, J. (ORAL):

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

CM No. 28619-20/2021

1. Allowed, subject to just exceptions.

W.P.(C) 9190/2021 & CM No.28618/2021 [Application filed on behalf of the petitioner seeking stay on the operation of the impugned order, dated 22.07.2021]

2. This writ petition is directed against the order dated 22.07.2021, passed by the Central Administrative Tribunal (in short "the Tribunal") in OA No.885/2021.

2.1. The operative directions are contained in paragraph 8 of the impugned order of the Tribunal. For the sake of convenience, the same is extracted hereunder: -

“8. Having regard to the facts and circumstances, we allow the OA and set aside the order dated 30.11.2016. We grant time of six weeks to the State of West Bengal to pass necessary orders in this behalf. It is directed that in case the applicant is not relieved by that time, she shall be deemed to have been relieved on expiry of six weeks”.

3. The record shows that, respondent no.1 had sought inter-cadre transfer, as far back as on 05.04.2016.

3.1. The inter-cadre transfer was sought on account of the fact that, her spouse, who is an Indian Forest Service (IFS) officer of 2012 batch, was posted in Uttarakhand cadre.

3.2. The request of respondent no. 1 was rejected by the petitioner i.e., the State of West Bengal, on 30.11.2016, on account of shortage of officers.

4. There is no dispute that, respondent no.1 was entitled to seek inter-cadre transfer, in terms of Rule 5(2) of the Indian Administrative Services (Cadre) Rules, 1954.

5. The tribunal, after considering the stand taken by the petitioner, has taken the view, as indicated above, that the petitioner needs to pass a fresh order.

6. Having examined the record and heard the counsel for the parties, we are not inclined to interfere with the impugned order.

7. We may note that, the petitioner has trotted out, shortage of officers, as the reason, for rejecting the request of respondent no.1 qua inter-cadre transfer, without placing the relevant material on record.

7.1. We are noticing that, this approach has been taken, in matter after matter, by the petitioner where officer(s) have sought inter-cadre transfer to other State(s) on account of their marriage, and which has been refused on a similar ground.

7.2. Unless the reasons set out in the order of refusal for inter-cadre transfer are backed by relevant material, it cannot pass muster of this Court.

7.3. In any event, the tribunal has given another opportunity to the petitioner to pass a fresh order, as indicated above.

8. Therefore, we find no merit in the writ petition, at least, at this juncture.

9. The writ petition is, accordingly, dismissed. Pending application shall also stand closed.

RAJIV SHAKDHER, J

TALWANT SINGH, J

AUGUST 27, 2021/nk

[Click here to check corrigendum, if any](#)