

SHYAM LAL Petitioner
Through : Col. S.R. Kalkal, Adv.

versus

UNION OF INDIA & ORS. Respondents
Through : Mr. Inderjeet Sidhu, Adv.

CORAM :-**HON'BLE MS. JUSTICE GITA MITTAL****HON'BLE MR. JUSTICE J.R. MIDHA**

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| 1. | Whether Reporters of Local papers may be allowed to see the Judgment? | NO |
| 2. | To be referred to the Reporter or not? | NO |
| 3. | Whether the judgment should be reported in the Digest? | NO |

GITA MITTAL, J. (Oral)

1. This writ petition has been filed by the petitioner aggrieved by the posting order dated 18th May, 2010 directing his transfer from 22nd Bn ITBP posted at Delhi to 30th Bn ITBP which is posted in the State of Uttarakhand. The available record shows that the petitioner has submitted representations dated 16th July, 2010 and 10th August, 2010 to the respondents informing them repeatedly that he was suffering from cancer and was under treatment at the AIIMS Hospital which requires his physical presence at Delhi. The petitioner had also stated that the said treatment could not be available at the place of his posting.

As no heed was paid by the respondents to these representations, he was constrained to file the present writ petition.

2. Notice in the matter was issued by us on 25th August, 2010. Mr. Ankur Chhibber, learned counsel for the respondents has produced a copy of the order passed only on 16th September, 2010 issued by the Directorate General of ITBP stating that the petitioner's posting by the order dated 18th May, 2010 has been cancelled. This order is taken on record.

3. The above narration would show that the petitioner has been harassed and constrained to file the present writ petition unwarrantedly. Valuable judicial time has been expended on the matter which lay clearly within the competence and jurisdiction of the respondents. The petitioner was dealt with unfairly and no heed was paid to his representations. The respondents were bound to have considered the representations of the petitioner expeditiously which has not been done.

4. In this background, the petitioner is entitled to be compensated by costs which are quantified to ₹10,000/-. The costs shall be paid to the petitioner along with his salary for the month of October, 2010.

5. At this stage, Mr. Ankur Chhibber, learned counsel for the respondents vehemently submits that the moment he brought the matter to the notice of the concerned officials, they were persuaded to examine the issue which resulted in

the passing of the order dated 16th September, 2010 and in this background he prays for waiver of costs. We are not inclined to accept such prayer having regard to the difficulties being faced by the petitioner as well as the harassment he must have undergone on receipt of such posting order and by the non-consideration of the representations. However, having regard of the fact that the respondents have now taken into consideration the facts placed by the petitioner and have passed an order, we reduce the costs to ₹5,000/- which shall be paid as directed above.

6. In view of the order dated 16th September, 2010, no further orders are required to be passed in the writ petition. The same is disposed of in the above terms.

6. Dasti.

GITA MITTAL, J

J.R. MIDHA, J

SEPTEMBER 17, 2010

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