

+ W.P.(C)No.7577/2010Date of Decision : 11th November, 2010

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AMRESH KUMAR YADAV Petitioner
Through : Mr. Subhasish Mohanty, Adv.

versus

UOI AND ORS Respondents
Through : Mr. Khalid Arshad, Adv. for
Mr. Neeraj Choudhary, CGSC.

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. By way of this writ petition, the petitioner prays for quashing of the order No.AFA/7001/3/P3 dated 14th October, 2010 directing the petitioner to proceed on posting.

2. The petitioner has premised his challenge to the posting on the ground that he has made a complaint to the respondent in respect of an alleged incident dated 25th April, 2009 which is pending consideration and that for this reason till consideration of his complaint, the petitioner ought not be posted out.

3. It is an admitted position that the petitioner was posted with the Air Force Academy at Hyderabad with effect from the 29th of November, 2004. He was posted out of the Academy

pursuant to a signal bearing No.RDA/369 dated 17th July, 2009 to the Base Repair Depot of the Air Force w.e.f. 12th October, 2009 on completion of his regular tenure at Hyderabad.

4. No challenge to the transfer which was directed by the signal No.RDA/369 dated 17th July, 2009 has been made before us.

5. The petitioner was involved in an alleged incident dated 25th April, 2009 wherein a complaint has been made against him. He has also lodged a complaint against the officers alleging ill-treatment and abuse. We are informed that the respondents have completed the court of inquiry and have also recorded summary of evidence into the alleged incident. Needless to say that the respondents are expected to proceed in the matter of the complaints in accordance with law. It is further explained that it is the posting of the petitioner which was effected as back as on 17th July, 2009 has only been implemented by the impugned order dated 14th October, 2010.

6. It is trite that transfer is an incident of service, especially in the defence forces. The petitioner has completed almost six years at the Air Force Academy. As noted above, the posting was ordered as back as on 17th July, 2009. Certainly the continuation of the petitioner at the given stage is unwarranted.

7. We are also not persuaded by the petitioner's contention to the effect that his complaint with regard to the incident dated 25th April, 2009 is pending. The petitioner himself has

stated that investigation has been conducted by the police on a complaint which has been lodged by the petitioner. The investigation by the police has been completed and the case stands closed.

8. For all these reasons, we find no merit in the writ petition and application which are hereby dismissed.

9. At this stage learned counsel for the petitioner prays that the petitioner may be given two weeks to comply with the directions made in the order dated 14th October, 2010 to proceed for the posting within such period. This request is granted. The petitioner is permitted to join at the place of posting in terms of the order dated 14th October, 2010 within 15 days from today.

Dasti to parties.

GITA MITTAL, J

J.R. MIDHA, J

NOVEMBER 11, 2010

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