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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) No. 4863/2013

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01 August, 2013

SUDHIR PATHAK

.....Petitioner

Through: Mr. Vinay Kumar Garg and Mr. Amit
Srivastava, Advocates.

VERSUS

INDIAN OIL CORPORATION & ANR.

..... Respondents

Through: Mr. V.N.Koura and Ms. Paramjeet
Benipal, Advocates.

CORAM:

HON'BLE MR. JUSTICE VALMIKI J.MEHTA

To be referred to the Reporter or not?

VALMIKI J. MEHTA, J (ORAL)

1. This writ petition is filed by the petitioner impugning the transfer order of the respondent-employer dated 5.4.2013 whereby the petitioner has been transferred from Noida to Guwahati.

2. I need not overstress that transfer is an incidence of service. Employer knows to the best way in which the services of the employee can be utilized. Employee places himself at the disposal of the employer and surely not the other way round. In the present case, the transfer order in spite of being passed few months back on 5.4.2013, petitioner on his request

because of his personal difficulties got an extension of three months for joining. Petitioner insists till today on giving various personal grounds including old age of his parents or his daughter getting married in December and so on to prevent his transfer. It is also claimed that petitioner has been victimized because he has asked for promotions and which earlier promotions were given with delay.

3. I may note that earlier a writ petition being W.P.(C) No. 2846/2013 was filed challenging the same transfer order, and which was withdrawn on 1.5.2013 because petitioner had been granted extension.

4. I need not say that employees after being transferred to Delhi or in the National Capital Territory of Delhi do not want to go away from New Delhi. This is a well known fact in most employer-organizations. Petitioner out of his service for about 33 years has been in Delhi for about 22 years. If employees are allowed to thwart transfer order for their convenience, no organization can function. I fail to find any strength whatsoever in the arguments urged on behalf of the petitioner that the petitioner is being victimized because the petitioner had asked for promotions in the post. I fail to understand as to how if promotions are asked for and are dealt with in accordance with rules, the same can in any manner be a ground to challenge

the transfer order. I repeatedly put to counsel for the petitioner a query that when a person approaches a Court he must show a legal right and corresponding legal obligation and how from the facts of this case does petitioner have a legal right. Petitioner must have a legal right not to get transferred and that legal right can only be in terms of the transfer policy of the respondent-organization. No clause whatsoever has been pointed out in any transfer policy, much less the same has been filed, that the petitioner cannot be transferred.

5. Ordinarily, I would have been inclined to impose costs while dismissing this writ petition but considering that the petitioner is in service, I am not imposing costs, of course though it appears that petitioner has enough money for repeatedly engaging lawyers and filing litigations in Court.

6. In view of the above, the writ petition is dismissed, leaving the parties to bear their own costs. All pending applications stand disposed of.

AUGUST 01, 2013
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VALMIKI J. MEHTA, J.