

Court No. - 20

Case :- WRIT - A No. - 9090 of 2023

Petitioner :- Shri Vishal Kaushik

Respondent :- Union Of India Thru. Secy. Ministry Home Affairs North Block New Delhi And 6 Others

Counsel for Petitioner :- Neerav Chitravanshi

Counsel for Respondent :- A.S.G.I.

Hon'ble Manish Mathur,J.

1. Heard learned counsel for petitioner and Mr. S. B. Pandey, Senior Advocate, Deputy Solicitor General of India assisted by Mr. Varun Pandey, learned counsel for opposite parties.
2. Petition has been filed challenging order dated 07.07.2023 whereby petitioner has been transferred to Arunachal Pradesh from 34th Bn. to 58th Bn. in the Indo-Tibetan Border Police Force (hereinafter referred to as ITBPF). Also under challenge is order dated 13.10.2023 whereby petitioner's representation against transfer has been rejected.
3. It has been submitted that petitioner's case is fully covered by Standing Order dated 10.02.2023 and subsequent order dated 14.02.2023 pertaining to procedure required to be followed for transfer and posting of Officers of the ITBPF. It is submitted that petitioner had made a representation under clause 6 of aforesaid Standing Order with regard to couple postings. Request of petitioner was also that he may be permitted to serve out his three-year tenure in the current place of posting which has been cut short due to passing of impugned order.
4. Learned counsel for petitioner has further submitted that impugned order has been passed as a measure of annoyance due to petitioner seeking couple postings and in case petitioner's representation against transfer was required to be rejected, there was no requirement of posting him in such a far flung area which clearly indicates malice in law.

5. Learned counsel for petitioner has also submitted that although the impugned order states that petitioner has already been granted couple postings twice in his career, it is absolutely incorrect inasmuch as petitioner was married in year 2019 and was granted couple posting only in May 2021 but within six months' of such posting, petitioner was attached to Lucknow and therefore such a fact recorded in impugned order being incorrect indicates non-application of mind by authorities concerned. It is also submitted that even otherwise as per the Standing Order, petitioner is required to complete three years of his posting in a particular place which has not been adhered to by opposite parties themselves despite recommendation of Inspector General ITBPF Headquarter Eastern Frontier, opposite party no.5.

6. Learned counsel appearing on behalf of opposite parties have refuted the submissions advanced by learned counsel for petitioner and has referred to impugned order itself indicating that petitioner's transfer is on account of administrative and operational constraints.

7. Upon consideration of submissions advanced by learned counsel for the parties and perusal of material on record, it is evident that petitioner is an Officer in ITBPF which is a disciplined organization. The only submission of learned counsel for petitioner is based on Standing Order pertaining to transfer and posting of officers of ITBPF. A perusal of aforesaid Standing Order makes it evident that the same are in nature of guidelines from which petitioner does not derive any vested right of a particular posting. It is also a relevant fact that petitioner is an Officer in a para-military force, which is particularly deployed for protection of borders of the country and therefore normal instances of challenging transfer orders cannot be made available to persons of such a disciplined

force. In the event of interference by Courts in transfers and postings of such a disciplined force, it would have deleterious effect on discipline and conduct of the entire force which has a very onerous duty of protecting the country's borders.

8. With regard to submissions advanced by learned counsel for petitioner regarding incorrect facts being indicated in impugned order, it is evident that even otherwise petitioner in a short tenure of eight years have already been provided couple posting albeit only for six months. Aforesaid fact would not deter the aspect that the posting of petitioner in a disciplined organization is required in terms of administrative exigencies. Officers and personnel of such disciplined forces cannot insist on a particular posting in a particular manner.

9. In view of aforesaid, opposite parties were very well within their rights to issue impugned order. The recommendation of opposite party no.5 even otherwise cannot be binding upon superior authorities.

10. Learned counsel for petitioner has not been able to indicate any vested right accrued in the petitioner for a particular posting in a particular place. The impugned order clearly indicates the fact that petitioner's posting is as a measure of administrative/operational exigency.

11. This Court is in perfect agreement with the reasons recorded in the impugned order.

12. The petition being devoid of merit is **dismissed** accordingly.

Order Date :- 24.11.2023

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