

FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 6387 OF 2015

Dinanath Prasad S/o Baijnath Prasad

-vs-

Union of India, thr. Secretary, Ministry of Defence and others

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr.Nalin Majithia, counsel for the petitioner.

**CORAM : SMT. VASANTI A. NAIK &
PRASANNA. B. VARALE, JJ.**

DATE : 27.11.2015.

Heard.

By this petition, the petitioner impugns the order of the respondent No.5, dated 17/11/2015 posting the petitioner from Vayu Sena Nagar, Nagpur to 58 Engineering Regiment located in Assam.

The petitioner is stationed at Nagpur right from the inception of his services in the defence from 1991. The petitioner was directed by the order, dated 23/06/2014 to locate himself in the State of Assam in the Non-Family Zone. The petitioner challenged the said advance movement order and the order of posting in Writ Petition No.216 of 2015. The only ground raised by the petitioner in the said petition for challenging the order of posting and advance movement was that his old father was taking treatment in a hospital at Lucknow, as he was a cancer patient. The petitioner, therefore, sought his retention at Nagpur or a posting at Lucknow. During the pendency of the writ petition, the father of the petitioner expired and the cause for filing the writ petition did not survive. The petitioner remained at Nagpur despite the

dismissal of the writ petition by the order, dated 08/10/2015. By the impugned order, dated 17/11/2015, the petitioner is directed to proceed on permanent posting to the Non-Family Zone in the State of Assam in 58 Engineering Regiment.

The petitioner has challenged the impugned order on two grounds. Firstly, the daughter of the petitioner is taking education in the 12th Standard and secondly, the petitioner is entitled to seek the posting at Nagpur on compassionate ground.

On hearing the learned counsel for the petitioner, it appears that the relief sought by the petitioner cannot be granted. The petitioner is working in the defence services and has enjoyed the posting at Nagpur since the inception of his services from 1991. When the petitioner was asked to advance to the Non-Family Zone in Assam by the order, dated 23/06/2014, the petitioner had challenged the order on the ground that the petitioner's father was stationed in the hospital at Lucknow and was suffering from cancer. When the said writ petition was dismissed, as the sole ground for challenging the order, dated 23/06/2014 did not survive, the petitioner has challenged the order, dated 17/11/2015 on the two aforesaid grounds. The request of the petitioner for compassionate posting was examined by the respondents earlier and the petitioner was informed by the order, dated 11/06/2015 that such a posting could not be granted. It appears that the petitioner intends to remain at Nagpur permanently and though the petitioner is serving in the disciplined services like defence, the petitioner is not desirous of complying with the orders of the respondents posting him in a Non-Family Zone in Assam for the first time. The orders of transfer and advance movement and posting cannot be challenged on difficulties like education of children etc., as every employee is bound to have some family problems or the other. Considering the fact that the petitioner is posted at Nagpur since the year 1991 and also the fact that on the previous occasion also the petitioner had challenged the orders,

dated 23/06/2014 and 19/12/2014, the prayer made by the petitioner cannot be granted. It is clear from the guidelines annexed to the writ petition that an application for posting on compassionate ground could not be tenable for looking after old parents, education of children, household affairs and settlement of land disputes. It is clear from the Rules that separation from brothers and parents and attending civil suits would also not be tenable grounds for seeking compassionate posting. The ground raised by the petitioner in the instant petition is not tenable for compassionate posting, even as per the guidelines framed by the respondents and relied on by the petitioner for seeking compassionate posting.

In the result, the writ petition fails and is dismissed with no order as to costs.

JUDGE

JUDGE