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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of hearing and order : 21st January 2015

+ W.P.(C) 4117/2013, C.M. Appl. No. 9682/2013 (Stay) &
9683/2013 (Permission)

UNION OF INDIA & ORS. Petitioners
Through: Mr. R.V. Sinha, Senior Central
Government Counsel

versus

ROHIT MUDGAL Respondent
Through: Mr. Sandeep Bajaj, Advocate

CORAM:
HON'BLE MR. JUSTICE KAILASH GAMBHIR
HON'BLE MR. JUSTICE I.S.MEHTA

ORDER
21.01.2015

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KAILASH GAMBHIR, J. (ORAL)

1. Mr. Sandeep Bajaj, the learned counsel for the respondent submits that the similar writ petition, the same being W.P (C) No. 4180/2013, filed by the petitioners has been dismissed by the Division Bench of this court vide order dated 23.10.2013, where the request of the respondent for inter commissionerate transfer was upheld where also the respondent had submitted the request without having completed the probation period in terms of the modified policy/instructions dated 27.10.2011. The

Division Bench while upholding the order of the Tribunal and after referring para 4(vii) and (viii) of the Memorandum dated 20.09.2009 took a view that where one spouse is employed under Central Government and the other spouse is under the State Government, the competent authority may post the officer to the State where the spouse is posted. The Division Bench also referred the case of one Gaurav Bhatia who was similarly placed and was transferred to Delhi Zone, although he was also on probation and had not yet completed the probation period. In the present case also the respondent had submitted his application for inter commissionerate transfer on 9.3.2011 i.e. within six months from the date of his joining, requesting the petitioner to transfer him from Vadodara Zone to Delhi Zone where his wife was working as T.G.T. (S. Science) under the Directorate of Education, Government of NCT of Delhi. As per the respondent his case for transfer was to be considered as per the instructions dated 27.3.2009 and not under the modified instructions dated 27.10.2011. The request made by the respondent was declined by the petitioner on the basis of modified instructions dated 27.10.2011, where under request of such an officer could be entertained only when the officer appointed, in a particular commissionerate/post completes the prescribed probation period. The learned Tribunal after referring to many instances, where the petitioners had given relaxation in individual cases,

allowed the OA no. 3052/2012 filed by the respondent and directed the respondent therein to consider the case of the respondent afresh for inter commissionerate transfer i.e. from Vadodara Zone to Delhi Zone, if necessary by relaxing condition regarding completion of probation period. Learned Tribunal has passed the said order of 23.01.2013 and by this time it can be assumed that the respondent must have completed the probation period long back. In any case, as already stated above, the Division Bench of this court has also dismissed a similar petition filed by one such petitioner, the same being W.P (C) No. 4180/2013 vide order dated 23.10.2013, therefore nothing survives in the present petition.

2. In view of the aforesaid discussion, the present petition filed by the petitioner is dismissed and the order dated 23.01.2013 passed by the learned Tribunal is upheld with a direction to the petitioners to comply with the directions given by the learned Tribunal within a period of four weeks from the date of this order.

3. The petition and all the pending applications stand disposed of.

KAILASH GAMBHIR, J

I.S.MEHTA, J

JANUARY 21, 2015

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