

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

% *Date of Decision: January 22, 2015*

+ **W.P.(C) 6790/2014**

SATISH KUMAR Petitioner
Represented by: Mr.Kunwar Arish Ali, Advocate

versus

UNION OF INDIA & ORS. Respondents
Represented by: Mr.Arun Bhardwaj, CGSC with
Ms.Gunjan Bansal, Advocate

CORAM:
HON'BLE MR. JUSTICE PRADEEP NANDRAJOG
HON'BLE MS. JUSTICE PRATIBHA RANI

PRADEEP NANDRAJOG, J.

1. Deputed for duty at the Parliament House in Delhi and attached to the 169th Battalion, CRPF, the petitioner questions he being transferred to a non-peace area. The cause of action is premised on a transfer policy which envisages a two years posting at a place, unless exigency of administrative requirement warrant a Force personnel to be transferred out.
2. The transfer order is dated September 25, 2014, operation whereof was stayed by this court when notice to show cause was issued in the writ petition on October 1, 2014.
3. Relevant record has been produced which shows that the transfer of the petitioner is premised on an unfortunate incident which took place on August 23, 2014, involving the writ petitioner, his wife and another employee of CRPF named Sadanand, a Nursing Assistant.
4. An altercation took place when petitioner's wife was brought to the

CRPF Hospital and was administered an injection through drip by Sadanand, the Nursing Assistant. She complains to the petitioner that Sadanand had touched her inappropriately and gave her his mobile number desiring that she should speak to him.

5. The transfer is premised on the reasoning that the petitioner, who has to perform sensitive duty at Parliament House, should be transferred because only such Force personnel whose conduct is without any blemish are posted for security duty at the Parliament House complex.

6. It is apparent that the transfer is not on account of any exigency of service. The transfer is on account of an incident involving the petitioner and his wife on the one side and Nursing Assistant Sadanand on the other side.

7. Though the transfer is not penal nor can it be said to be malicious, we set aside the transfer order for the reason if petitioner's wife who was suffering from typhoid, made a complaint that a male nursing assistant had misbehaved with her, it would be natural for the petitioner to be angry. It is not that the petitioner went looking for Sadanand to beat him. The facts are not very clear but do bring out that when the petitioner got involved in the incident, his wife had a sandal in her hand which she was using to beat Sadanand. May be Sadanand retaliated and thus the petitioner entered the fray. It could well be that angered by what his wife told him and that she was having a sandal in her hand and was beating Sadanand the petitioner intervened.

8. The policy not to depute any Force personnel in the Parliament House who has any blemish is a correct policy for the reason the Parliament House Complex needs the highest security cover but qua the incident in question it

would not mean that the petitioner had a blemish.

9. The petition is disposed of setting aside the order dated September 25, 2014 transferring the petitioner from the Parliament House Complex.

10. No costs.

(PRADEEP NANDRAJOG)
JUDGE

(PRATIBHA RANI)
JUDGE

JANUARY 22, 2015

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