

\$~6

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

Date of Decision: October 08, 2015

+ **W.P.(C) 9395/2015**

SANDEEP MEENA Petitioner
Through: Mr. Rajesh Shrivastava, Advocate

versus

BUREAU OF INDIAN STANDARDS Respondent
Through: Mr. B.K. Sood and Mr. Shivam
Rawat, Advocates

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

% **JUDGMENT**
(ORAL)

Vide Office Memorandum of 7th September, 2015 (*Annexure-A colly.*), petitioner, who was working as the Deputy Director (Administration and Finance) in the Central Laboratory, Sahibabad, Delhi stands transferred to Eastern Region Office Laboratory (EROL), Kolkata w.e.f. 7th September, 2015. In pursuance to the impugned Office Memorandum/Transfer Order (*Annexure-A colly.*) petitioner stands relieved on the very same day.

Learned counsel for respondent submits that in place of petitioner, the person, who has been transferred, has already joined. Petitioner's Representation against the Office Memorandum stands rejected vide

order of 29th September, 2015 (*Annexure-B*) wherein it is stated that as per Policy of Bureau of Indian Standards, the AD (A&F) and DD (A&F) are interchangeable as per the availability of the manpower and administrative requirement in the best interest of the organization. A short affidavit has been filed on behalf of respondent wherein it is disclosed that the concerned AD (A&F) has been transferred from Kolkata to Chandigarh on promotion.

Learned counsel for respondent further submits that the two posts i.e. of Additional Director and Deputy Director are interchangeable and there is no demotion of petitioner because his pay, emoluments and designation remain protected and administrative exigencies require that petitioner mans the post of Additional Director (Administration and Finance) at Kolkata. It is assured that this does not in any way means demotion of petitioner. However, learned counsel for petitioner submits that the transfer of petitioner to Kolkata amounts to his demotion.

Initially, the challenge to the impugned transfer order was made by petitioner on the ground that mid-term transfer ought not to be undertaken and on the ground that petitioner's father, who is suffering from cancer, is receiving treatment from AIIMS. On this aspect, learned counsel for respondent maintains that the treatment for cancer is available in Kolkata as well and the administrative exigencies require petitioner to be transferred to Kolkata.

A Division Bench of this Court in *Municipal Corporation of Delhi v. Anil Prakash* 2008 (2) AD (Delhi) 99 has reiterated that the transfer of an employ is a prerogative of the authorities concerned and the courts are not to interfere with the exercise of such discretion unless it is shown that

transfer is vitiated by *mala fides* and is in violation of any statutory provisions or that the authority concerned is not competent to pass such transfer order.

Upon hearing and on perusal of the impugned transfer order and the material on record and the decision of Division Bench in *Anil Prakash (supra)*, this Court finds that the impugned transfer has been made on the ground of administrative requirements and in the best interest of the organization. No doubt, mid-term transfers ought to be avoided, but on this ground alone, impugned transfer order cannot be quashed as the transfer has been done due to administrative exigencies.

So far as treatment of petitioner's father is concerned, the same is available in Kolkata also. Although, there is no post of Deputy Director in Kolkata, but while maintaining the designation of petitioner and protecting his pay and perks, etc., he is being transferred to Kolkata and so, on this ground, the impugned transfer cannot be faulted with. Impugned order is neither vitiated by *mala fides* nor is in violation of any statutory provisions, rules or regulations.

In view of the aforesaid, this Court is not inclined to invoke its jurisdiction under Article 227 of *the Constitution of India* to interfere with the impugned transfer order. Consequently, this petition and the application are dismissed while leaving the parties to bear their own costs.

(SUNIL GAUR)
JUDGE

OCTOBER 08, 2015

S