

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.12599 of 2015 (O&M)

Date of Decision:- 27.5.2016.

Kaushalveer Singh

.....Petitioner

Versus

Union of India and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr. Rajeev Anand, Advocate for the petitioner.

Mr. Pawan Kumar Longia, Senior Panel Counsel
for Union of India-respondents.

P.B. BAJANTHRI, J.

1.) In the instant writ petition, the petitioner has questioned the order dated 23.6.2014 (Annexure P-3) and order dated 12.6.2015 (Annexure P-6).

2.) The petitioner was appointed as a Head Constable (Ministerial) on 1.2.2006. He was transferred to new Group Centre at Sonapat in the year 2010.

3.) Learned counsel for the petitioner submitted that petitioner was suffering from Chronic Kidney Disease Stage-II with Hypertension in the year 2012 for which he was taking treatment in

AIIMS, New Delhi under order of reference by CRPF.

4.) On 23.6.2014, the petitioner has been transferred to Sonapat 75 Battalion CRPF counter insurgency operations at Srinagar in Jammu and Kashmir (Annexure P-3). On the request of the petitioner to continue his service at Sonapat, the same was considered and he was permitted to continue till September, 2014 and thereafter one more extension was given till 31.5.2015. Before expiry of extended period, he had submitted representation to retain him at Sonapat on the ground that he himself is suffering from Kidney Renal Failure. The respondents have rejected request of the petitioner vide order dated 12.6.2015 (Annexure P-6) which reads as follows:-

*"TO : POLCENT NWS
INFO : DIGCENT GC SPT/TIGER-75 BN
FM : CESPOL J&K ZONE JMU U/C
NO.:T.IX.68/2015-JKZ-DA-III(ORG) DATED 12/06/2015*

REG. TRANSFER OF HC(MIN) (-) PSE REF. YOUR LTR NO.T.IX-10/2015-ADM.II DTD-01/06/2015 (-) HIS REQUEST FOR ANOTHER ONE YEAR RETENTION AT PRESENT PLACE OF POSTING ON MEDICAL GROUND HAS BEEN CONSIDERED BUT THE SAME HAS BEEN REJECTED BY THE COMPETENT AUTHORITY BEING DEVOID THE MERIT (-) HE MAY BE RELIEVED ON TFR FORTHWITH WITH DIRECTION TO REPORT TO 75 BN.///

SD/-12/06/2015

DIGCENT (AMN)"

5.) Learned counsel for the petitioner has challenged the

aforesaid communication dated 12.6.2015 on the ground that petitioner's continuation in Sonapat having regard to the fact that he was suffering from Chronic Kidney Disease Stage-II with Hypertension has not been taken into consideration and no reasoning has been assigned. In fact, the petitioner has been posted to Srinagar which is a hard area. Having regard to the petitioner's health condition, the Competent Authority would have subjected petitioner to a Medical Board so as to verify whether he can be posted to hard area or not as per the policy.

6.) Learned counsel for the respondents submitted that respondents have taken lenient view by continuing the petitioner in the present post on two occasions i.e. extension upto September, 2014 and 31.5.2015. The respondents have considered the medical ground and they have rejected the petitioner's representation through communication dated 12.6.2015. There is no infirmity in respect of transfer order dated 23.6.2014 read with communication dated 12.6.2015. Hence, the petition is to be dismissed.

7.) Perusal of communication dated 12.6.2015 - Annexure P-6, there is no consideration of the petitioner's grievance read with transfer policy (medical ground) and it is not a speaking order. Supreme Court held that even administrative decision or action must contain reasons if such decisions are amenable for judicial review. Therefore, Annexure P-6 dated 12.6.2015 is set aside. Setting aside the order dated 12.6.2015 would not come in the way of passing a

fresh order by the respondents while passing a speaking order, insofar as consideration of the petitioner's claim to retain in Sonapat or other than hard area as per the policy. In this regard, respondents are directed to take a decision within a period of three months from today.

8.) Petition stands allowed.

(P.B. BAJANTHRI)
JUDGE

May 27, 2016.

sandeep sethi