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

+ W.P.(C) 738/2016 & CM No.17829/2016

UMESH CHANDRA SINGH

..... Petitioner

Through: Mr. Nitin K. Gupta, Advocate

versus

UNION OF INDIA & ORS

..... Respondents

Through: Mr. Arun Bhardwaj with
Mr. Jitendra K. Tripathi, Advocates for R-1.
Mr. Bharat Sangal, Advocate for R-2 to 5.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

ORDER

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23.05.2016

1. The petitioner has prayed for quashing of the transfer order dated 14.7.2015, whereunder he has been transferred by the respondents from the post of Senior Manager at NETRA-Gr. Noida to the post of Sr.Manager in the O&M Department at KBUNL-Kanti. The second relief is to direct the respondents to consider his representations pertaining to his promotions w.e.f. the year 2005 onwards. Lastly, the petitioner seeks directions to the respondents to promote him to the level of E-6 w.e.f. the date on which his immediate juniors were appointed to Level E-6.

2. At the outset, counsel for the respondents submits that vide order dated 29.1.2016, the prayer made by the petitioner for restraining the respondents from transferring him and for staying the operation of the

impugned transfer order dated 14.7.2015, was rejected and the interim application was dismissed.

3. Counsel for the petitioner states that aggrieved by the order dated 29.1.2016, the petitioner had filed an intra court appeal before the Division Bench, which was dismissed as withdrawn, vide order dated 2.2.2016. Thereafter, the petitioner had joined his place of posting on 5.2.2016.

4. It has been enquired from learned counsel for the petitioner as to whether the petitioner had joined his place of posting without prejudice to his rights and contentions raised in the present petition, to which the reply is in the negative.

5. Counsel for the respondents also asserts that the petitioner has not only joined his place of posting in terms of the impugned transfer order dated 14.7.2015, at the time of joining, he did not reserve his right to contest the said order dated 14.7.2015, knowing very well that the interim application for stay stood rejected.

6. This Court is of the opinion that in view of the subsequent events noted above, the first relief prayed for by the petitioner has been rendered infructuous by now. As for the second relief, which is for issuing directions to the respondents to call for various records, the petitioner is at liberty to invoke the RTI Act, but a writ petition will not lie for the said relief. The said prayer is accordingly declined with liberty granted to the petitioner to apply under the RTI Act for the relevant documents.

7. The third prayer made in the petition is rather innocuous as the petitioner has failed to specify the date on which his immediate junior was allegedly appointed by the respondents to Level E-6, prior to him.

8. Counsel for the petitioner concedes that no particulars were furnished

at the time of filing the present petition, but in the rejoinder filed on 20.5.2015, in response to the counter affidavit filed by the respondents No.2 to 5, it has been averred that one Shri Shis Pal Singh Pundir was promoted in the year 2009 when he had rendered service of only two years, whereas the petitioner, who had rendered four years of service by then, was ignored.

9. Counsel for the respondents submits that contrary to the submission made by the other side, the petitioner's appeal on the above aspect was duly considered by the department and an order dated 12.5.2015 was passed, under written intimation to him. The said fact is however disputed by learned counsel for the petitioner, who states that the petitioner has not received a copy of the said order till date.

10. Respondents No.2 to 5 are directed to furnish a copy of the order dated 12.5.2015 to the petitioner, through counsel, within one week from today. If the petitioner is aggrieved by the said order, he shall be entitled to seek his remedies, if any, as may be available to him in law.

11. The petition is disposed of, along with the pending application.

HIMA KOHLI, J

MAY 23, 2016

sk/ap