

\$~18

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

+ W.P.(C) 907/2016 & C.M.3959/2016

ASHOK KUMAR SIROHI Petitioner
Through: Ms. Saahila Lamba, Advocate

versus

UNION OF INDIA & ORS Respondents
Through: Mrs. Abha Malhotra, Advocate

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI
HON'BLE MR. JUSTICE SUNIL GAUR

% **ORDER**
12.02.2016

1. The petitioner is aggrieved by the Movement Order dated 13th January, 2016, issued by the respondent-BSF calling up him to move to his place of posting at Dabla, Rajasthan.
2. Learned counsel for the petitioner states that the petitioner was recruited as a Constable in the respondent-BSF on 22nd December, 1997 and during the course of his service, spanning over 18 years, he was posted at several places, which were hardship areas. In the year 2015, the petitioner had submitted an application to the respondent requesting that he may be posted at Delhi to enable him to attend to his ailing mother.

3. The said request was acceded to by the respondents vide order dated 11th May, 2015 and a Movement Order dated 24th May, 2015, was issued transferring the petitioner to Delhi.

4. In less than eight months, the petitioner has received a Movement Order dated 15th January, 2016 requiring him to report for duty immediately at 194th Bn BSF at Rajasthan. Aggrieved by the said order, the petitioner had submitted a representation to the respondents (*Annexure P-6*) stating *inter alia* that he had not even completed the posting period of four years at Delhi. The grievance of the petitioner is that the respondents have failed to reply to the said representation. Presently, the petitioner is stated to be on leave upto 15th February, 2016.

5. Learned counsel for the respondents, who appears on advance notice, states on instructions that there are valid reasons for the respondents to have issued the impugned Movement Order dated 15th January, 2016. She however, concedes that the same have not been communicated to the petitioner at the time of passing of the said order.

6. In view of the fact that it was on a written representation made by the petitioner that the respondents had transferred him to Delhi in May, 2015, we are of the opinion that if the respondents

were of the opinion that the petitioner did not deserve to remain in Delhi, then the reasons therefor ought to have been provided to him.

7. The present petition is accordingly disposed of with directions to the respondents to decide the petitioner's representation by considering all the pleas taken by him therein and pass a speaking order under written intimation to him. Needful shall be done within two weeks from today. The respondents shall not take any coercive action against the petitioner for a period of two weeks reckoned from today. If the petitioner is aggrieved by the decision of the respondents, he shall be entitled to seek his legal remedies as per law.

8. The present petition is disposed of along with pending application.

9. A copy of this order be given *dasti* under signatures to learned counsel for the respondents.

HIMA KOHLI, J

SUNIL GAUR, J

FEBRUARY 12, 2016

s