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

+ **W.P.(C) 2766/2016**

INSPECTOR /FIRE PAWAN KUMAR Petitioner

Through: Mr. Sumeet Pushkarna, Mr. Rajiv
Ranjan Mishra and Mr. Siddharth
Nagpal, Advocates

versus

UOI AND ORS Respondents

Through: Mr. Abhay Prakash Sahay, CGSC,
with Mr. Arnav Kumar, G.P. and
Mr. Syed Husain Adil Taqvi,
Advocates for respondents No.1-4

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER

% **29.03.2016**

C.M.11621/2016 (Exemption)

Allowed subject to all just exceptions.

W.P.(C) 2766/2016 & C.M. 11620/2016 (Stay)

1. The present petition has been filed by the petitioner praying *inter alia* for setting aside and quashing the order dated 29th February, 2016, posting him to Vishakhapatnam Steel Plant (VSP), Vizag and for directing the respondent-CISF to defer his transfer orders by accommodating him at a place close to his wife's workplace at District Auriya, U.P., where she is engaged as a teacher by the State of U.P.
2. Mr. Pushkarna, learned counsel for the petitioner, submits that the O.M. dated 30th September, 2009, issued by the Ministry of Personnel, Public Grievance and Pensions, Government of India, has laid down the

Guidelines for posting of husband and wife at the same station and in a case like the present one, where one spouse is employed under the Central Government and other is employed under the State Government, it has been stated that the spouse employed under the Central Government may apply to the competent authority for being posted in that station to the State where the other spouse is posted. He particularly draws our attention to para No.4 (vii) of the aforesaid Guidelines.

3. Learned counsel for the respondents states that prior to the filing of the present petition, the petitioner had submitted a representation dated 16th February, 2016 to the respondents. However, vide letter dated 20th February, 2016, the said representation was turned down. He has produced the record which reveals that the petitioner's representation along with representations made by some other officers recruited in the CISF for change of their place of postings have been turned down collectively with a cryptic remark "*considered and regretted*".

4. Learned counsel for the petitioner states that the copy of the said order has not been furnished to the petitioner and in any case, it is apparent that it is a non-speaking order which has not taken into consideration the Guidelines laid down under the O.M. dated 30th September, 2009 that specify that the departments and the Ministries ought to follow them in "letter and spirit", which has not been done in the present case.

5. Learned counsel for the respondents states that the petitioner's case was considered under the Guidelines for Posting/Transfer of CISF Personnel [NGOs and Constable (GD, Fire, Paramedics & Tradesmen), HCs, ASIs, Sis, and Inspectors] in various Sectors of CISF, except

Airport Sector, dated 20th December, 2011, and having regard to the fact that the petitioner has remained posted in Northern India for the past entire decade, his request for being accommodated at his wife's place of posting in U.P., which also falls in the Northern Zone, has been turned down. The aforesaid explanation is however missing in the rejection order passed by the respondents.

6. Learned counsel for the petitioner states that he may be permitted to file a substantive representation before the Competent Authority wherein he shall specify other instances where similarly placed officers have been accommodated whereas, the petitioner has been discriminated.

7. In view of the said submission, liberty is granted to the petitioner to file a substantive representation before the Competent Authority within two days. Upon receiving the said representation, the same shall be considered in accordance with applicable rules laid down pertaining to posting of husband and wife at the same station and a speaking order shall be passed under written intimation to the petitioner within one week thereafter.

8. *Dasti* to learned counsel for the respondents.

HIMA KOHLI, J

SUNIL GAUR, J

MARCH 29, 2016

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