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

+ W.P.(C) 4468/2016

RISHABH AGRAWAL

..... Petitioner

Through Mr. Jagjit Singh & Mr. Preet Singh,
Advocates.

versus

UNION OF INDIA AND ANR.

..... Respondents

Through Mr. Ruchir Mishra, Mr. Mukesh Kumar
Tiwari & Mr. Ramneek Mishra, Advocates for
UOI.

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

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17.05.2016

We have heard learned counsel for the petitioner in this writ petition, which impugns order dated 21st April, 2016 passed by the Principal Bench of the Central Administrative Tribunal in OA No. 1217/2016.

2. The impugned order dismisses the OA after examining the factual matrix, including the undertaking dated 1st January, 2016 given by the petitioner that he would join the transfer posting at Mumbai by 1st April, 2016.

3. It does appear that initially the petitioner had objected and raised

concerns about the transfer order dated 21st December, 2015. The petitioner's written representation dated 23rd December, 2015 makes several assertions and allegations. However, subsequently the issue was resolved with the petitioner, moving an application dated 29th December, 2015 requesting that the transfer order may be postponed/cancelled for next three months due to personal reasons. The petitioner had also stated that he would maintain integrity and devotion to duty and ensure good relations with seniors. This representation was accepted and by order dated 31st December, 2015 time for joining was extended upto 1st April, 2016. After waiting for more than a month, the petitioner's wife made a representation, which was replied to vide letter dated 8th February, 2016. This reply makes reference to earlier developments prior to the request letter of the petitioner dated 29th December, 2015 and the order of the respondents dated 31st December, 2015. The petitioner had sent a legal notice dated 19th March, 2016.

4. The petitioner claims that he is being discriminated for others had remained in Delhi for a period upto 23 years. It is also submitted that the petitioner's wife is expecting a child in the month of July.

5. The fact that the petitioner's wife was expecting a child was known to the petitioner when he had written letter dated 29th December, 2015. The petitioner accepts that this request letter was written. This letter was never

withdrawn or retracted. It is not claimed or asserted that the petitioner was coerced and forced to write this letter. A perusal of the said request letter would indicate that the issue was discussed and resolved as per mutual discussion and settlement. In terms thereof, the petitioner was to join the transfer posting at Mumbai on or before 1st April, 2016. We are informed that the petitioner has joined the said posting on 10th April, 2016. The respondents have also informed the petitioner that for the present his request for re-transfer to Delhi cannot be accepted. However, the petitioner for personal/family reasons can avail of admissible leave as per National Productivity Council rules. We hope and trust that if the petitioner makes a request for leave, the same would be considered sympathetically.

6. The petitioner has remained in Delhi for about eight years and the fact that some others have also been in Delhi for a longer period, may by itself not justify the relief claimed by the petitioner for the post is transferable.

7. Learned counsel for the petitioner, however, submits that Deputy Directors are never transferred and has drawn our attention to the list Annexure A-17 at page 93, which contains names/details of about 47 other officers, who have remained at the place of initial posting for 23 to 8 years.

8. While we are not issuing notice in the present writ petition, we give liberty to the petitioner to make a representation explaining the facts and

difficulties. If any such representation is made, the same will be considered by the respondents. The respondents, we trust would be objective and fair.

With the aforesaid observations, the writ petition is dismissed.

SANJIV KHANNA, J.

NAJMI WAZIRI, J.

MAY 17, 2016
VKR