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

+ **W.P.(C) 4992/2016 & CMs No.20863-64/2016**

BRIJESH KUMAR PANDEY Petitioner
Through : Mr. Srinivasa Rao K., Advocate

versus

DIRECTOR GENERAL BORDER SECURITY FORCE & ANR Respondents
Through : Mr. Vikram Jetly with
Mr. Arun Kumar, Advocates

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER

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27.05.2016

1. The present petition has been filed by the petitioner impugning the transfer order dated 14.5.2016, whereunder he has been directed to report to the 103rd Battalion, at Jaishalmer, Rajasthan.
2. Counsel for the petitioner states that the petitioner had joined the respondent/BSF as a Constable (GD) on 10.4.1995 and is presently posted at the 25th Battalion at Chhawla Camp, New Delhi. On 30.11.2015, the petitioner was promoted to the rank of a Head Constable (GD). Six months down the line, the petitioner has received the impugned Movement Order dated 14.5.2016, thereby curtailing his minimum assured tenure of three years to six months. Hence, the present petition.

3. Counsel for the respondents, who appears on advance notice, draws our attention to Rule 9 of the Border Security Force (Tenure of Posting and Deputation) Rules, 2000 (Annexure P-3) that relates to “Posting on Promotion”. The said Rule states that the tenure rule shall not be applied in promotion cases. It is submitted that the petitioner having been promoted as Head Constable (GD) on 30.11.2015, cannot insist on an assured tenure posting of three years.
4. When confronted with the aforesaid position, counsel for the petitioner states, on instructions, that the petitioner is ready and willing to give up his promotion and an averment to that effect has been made by him in his representation dated 19.5.2016, submitted to the respondents.
5. However, a perusal of the representation dated 19.5.2016 submitted by the petitioner does not bear out the said submission. The said representation only mentions that the petitioner had completed only six months of his tenure, whereas a Head Constable (GD) is entitled for a tenure of three years. No other plea has been taken by the petitioner for seeking cancellation of the impugned Movement Order dated 14.5.2016.
6. In view of the submission made by the counsel for the petitioner that the petitioner is willing to file a representation with the respondents for foregoing his promotion so that his Movement Order dated 14.5.2016 can be cancelled, the present petition is disposed of with liberty granted to the petitioner to file a representation within two weeks, which shall be duly considered and decided by the respondents by passing a speaking order within one week from the date of receipt thereof, under written intimation to the petitioner.

7. The writ petition is disposed of, along with the pending applications.

HIMA KOHLI, J

SUNIL GAUR, J

MAY 27, 2016

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