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

+ W.P.(C) 5422/2016 and CM APPL. 22578/2016

CDR RUPESH SHARMA

..... Petitioner

Through: Mr. Prashant Sivarajan, Advocate for
Mr. Ajit Kakkar, Advocate

versus

UNION OF INDIA AND ORS

..... Respondents

Through: Ms. Barkha Babbar, Advocate with
Ms. Dipanjali Tyagi, Advocate

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER
02.06.2016

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1. The present petition has been filed by the petitioner, who is working on the post of a Commandant with the Indian Navy, praying *inter alia* for quashing the posting order dated 10.03.2016, whereunder he has been posted to DRDL Hyderabad, as also the order dated 13.03.2015, whereunder his application for premature retirement has been rejected by the respondents.
2. Counsel for the petitioner states that the petitioner is presently posted in Delhi and vide application dated 19.05.2014, he had sought voluntary retirement from service. However, the said application was returned on the ground that it was not in proper format. The petitioner had submitted a fresh application for seeking voluntary retirement on 26.11.2014, which was

rejected vide order dated 13.03.2015, stating *inter alia* that it was not found feasible to accept his request. On 10.3.2016, the respondents issued the impugned order posting the petitioner to Hyderabad w.e.f. June, 2016. Simultaneously, the petitioner submitted another application dated 01.04.2016, for seeking premature retirement.

3. Counsel for the petitioner submits that vide order dated 20.05.2016, the petitioner's proposal for seeking premature retirement was forwarded to the Naval Headquarters with the recommendation that he be released on 30.06.2017. He states that till a decision is taken by the Competent Authority, the petitioner's transfer order may be quashed and if not quashed, at least stayed.

4. Counsel for the respondents, who appears on advance notice, states that the petitioner was sent to Israel between January, 2011 to June, 2014 to undergo training for Long Range Surface to Air Missile Project and as per the guidelines laid down in para 18 of the Office Order No.07/2012 (Annexure P-16), the application for voluntary retirement/resignation of officers, who have undergone deputation to foreign countries which involve acquiring expertise/specialised knowledge, would not be entertained before completion of 3/5 years of post deputation service. She states that the period of 3/5 years in the case of the petitioner has yet to expire and the expertise that he has acquired while on deputation to Israel have been utilised for the past one and half years at Delhi and the same expertise would be required for completing a project in collaboration with DRDO at Hyderabad.

5. In these circumstances, we are not inclined to entertain the request of the petitioner for quashing the impugned transfer order. At the same time, having regard to the letter dated 20.05.2016 (Annexure P-15), it is deemed

appropriate to direct the respondents to dispose of the petitioner's pending request for premature retirement within four weeks from today, by passing a speaking order, under written intimation to him.

6. The petition is disposed of alongwith the pending application.

HIMA KOHLI, J

SUNIL GAUR, J

JUNE 02, 2016

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