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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 5673/2016 & C.Ms.23476-77/2016
P K WADHWA Petitioner
Through: Mr. Ramesh Kumar, Advocate
versus

UNION OF INDIA AND ORS Respondents
Through: Mr. Lalit Bhardwaj, Advocate for
respondents No.2 to 4

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

% **ORDER**
13.06.2016

Petitioner's representation against his transfer to the construction site of Mohali Project at Kharar stands dismissed vide impugned order of 26th May, 2016.

A perusal of the impugned order reveals that petitioner's transfer is temporary one to ensure the marketing of unsold products in Mohali. Regarding illness of petitioner's wife, impugned order states that there are no documents to show that any follow up visits were undertaken after 20th March, 2016.

At the hearing, learned counsel for petitioner had assailed the impugned order on the ground that petitioner's transfer smells of vindictiveness and is a ploy to ensure that petitioner is not promoted from the post of Deputy Director (Administration) to the post of Director (Administration).

At the hearing, it was vehemently contended by learned counsel for petitioner that petitioner does not have any expertise in marketing and so, his transfer to Mohali is wholly unjustified.

To the contrary is the submission of learned counsel for respondents, who points out that as per Office Order No.23 of 18th March, 2016, petitioner as Deputy Director (Administration) is required to ensure the sale of unsold dwelling units of the assigned project and so, it cannot be said that he does not have the expertise. It is the precise submission of learned counsel for respondents that petitioner is an experienced hand and till recently, he has been officiating as Director (Administration) and while acknowledging the expertise of petitioner, he is being posted at the Mohali Project on temporary basis.

After having heard both the sides and on perusal of the impugned order, the concerned Office Order and the material on record, I find that the scope of judicial interference in matters of transfer is limited one.

A Division Bench of this Court in *Udai Vir Singh Rathi (ACP) v. Union of India & Ors.* 2011 SCC OnLine Del 2601 has reiterated that if courts continue to interfere with the day-to-day orders passed by the government and its subordinate authorities, then there will be complete chaos in the administration, which will not be conducive to public interest and that even if the transfer order is passed in violation of executive instructions or orders, the courts should not ordinarily interfere with the transfer order.

In *Airports Authority of India v. Rajeev Ratan Pandey & Ors.* (2009) 8 SCC 337, Apex Court has reiterated that while dealing with the matters of transfer, allegations of *mala fides* must be specific and should inspire confidence of the Court and mere assertion or a bald statement of *mala fides* is not enough and the burden to prove *mala fides* is heavy one and lies on the person, who alleges it and the allegations of *mala fides*

must be supported by requisite material. It is also reiterated by Apex Court that the scope of judicial review is limited and the court should not interfere with the order of transfer lightly.

Apex Court in *Registrar General, High Court of Judicature of Madras v. R.Perachi & Ors.* (2011) 12 SCC 137 has again reiterated that several imponderables requiring formation of a subjective opinion in the sphere of transfers may be involved, at times. The only realistic approach is to leave it to the wisdom of the hierarchical superiors to make the decision. Unless the decision is vitiated by *mala fides* or infraction of any professed norm or principle governing the transfer, which alone can be scrutinized judicially, there are no judicially manageable standards for scrutinizing all transfers and the courts lack the necessary expertise for personnel management of all government departments. This must be left in public interest to the departmental heads subject to a very limited judicial scrutiny.

Having scrutinized the instant case in light of above stated legal position, I find that the transfer of petitioner to Mohali Project does not smack of any vindictiveness and that the illness of petitioner's wife is not such which requires any interference on the judicial side, as adequate medical facilities are available in Mohali as well.

Finding no palpable error in the impugned order, this petition and the applications are dismissed.

(SUNIL GAUR)
VACATION JUDGE

JUNE 13, 2016

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