

\$~9

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

+ W.P.(C) 6716/2016

LAVIKANT TYAGI

..... Petitioner

Represented by: Mr.M.K.Saroja, Advocate

versus

UNION OF INDIA AND ORS

..... Respondents

Represented by: Mr.Rajesh Kumar, Advocate with
Mr.Pradeep Jha and Ms.Santwana,
Advocates

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

% **05.08.2016**

1. The petitioner questions his transfer to Tripura. He does so on the ground that he has a kidney transplant. He claims to be under intensive medical care with ARTEMIS Health Institute Gurgaon.

2. We note that the surgery took place somewhere in July, 2011. Petitioner was discharged from the hospital on July 23, 2011. We have perused the medical papers. They do not evidence petitioner required to undergo any intensive medical care. It is a case of routine medical check-ups. The routine medical check-ups are now being conducted at AIIMS. Meaning thereby, if the petitioner is posted at a place where facilities are available to monitor the kidney functioning of a person who has undergone a kidney transplant, that should be fine.

3. Petitioner works with BSF. Its jawans are stationed at the border. Static posting in cities such as Delhi, Mumbai and Chennai are very less in

number. A number of force personnel have medical problems or their wife and children have medical problems requiring them to be stationed in cities. They are the ones who have to take ongoing medical treatment.

4. Noting that the petitioner had undergone a kidney transplant 5 years ago and he needs periodic check-ups the respondents have withdrawn the impugned posting order and have taken a decision that the petitioner would be attached to the 144th Bn. at Kalyani. GMCH facilities are available at Kalyani which is at a distance of 10 kms from the BSF camps and various super speciality hospitals having neurology departments are available at Calcutta. The city of Calcutta is at a distance of 40 kms from where the 144th Bn. BSF is stationed at Kalyani.

5. We note that the impugned transfer order has been superseded by a new transfer order and the petitioner is now being posted at a place where he can easily avail routine monthly check-up of his kidney function.

6. The petition is now infructuous and is disposed of as such because the transfer order impugned has been withdrawn. The place of posting is of a kind where no inconvenience shall be caused to the petitioner and his medical check-up can be easily taken care.

7. No costs.

CM No.27537/2016

Dismissed as infructuous.

PRADEEP NANDRAJOG, J.

JAYANT NATH, J.

AUGUST 05, 2016

mamta