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

+ W.P.(C) 7688/2016

SALIL KUMAR SARKAR Petitioner
Through Mr. U. Srivastava, Advocate.

versus

UNION OF INDIA & ORS Respondent
Through Ms. Archana Gaur, Advocate.

CORAM:
HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MS. JUSTICE SUNITA GUPTA

ORDER
% **22.09.2016**

Learned counsel for the petitioner submits that the petitioner's son is to appear in class XII examinations in March, 2017. The petitioner is willing to give an undertaking that he would join the transfer posting at Ambernath, Maharashtra after class XII examinations are over.

2. On a Court query, learned counsel for the petitioner has accepted that the petitioner has been stationed in Muradnagar, Ghaziabad since 2011. The petitioner's son, it is stated, is studying in *Kendriya Vidyalaya* at Muradnagar, Ghaziabad. Learned counsel for

the respondents on instructions states that MPF, Ambernath, Maharashtra also has a *Kendriya Vidyalaya*, wherein the petitioner's son would be accommodated. Ambernath, it is pointed, is a suburb of Mumbai.

3. The petitioner, who is present in the Court, has submitted that if he is asked to join transfer posting in Maharashtra, studies of his son will be disturbed and affected, for it will take about a month to settle down at Ambernath.

4. Having considered the submissions, we do not find any reason to interfere with impugned order dated 20th August, 2016, whereby OA No.2809/2016 filed by the petitioner has been dismissed by the Central Administrative Tribunal. The petitioner was transferred after about five years in the present posting at Muradnagar, Ghaziabad. XIIth class examinations of the petitioner's son are still about six months away. The place of transfer, Ambernath is situated near Mumbai and has a *Kendriya Vidyalaya*. The very purpose of setting up *Kendriya Vidyalaya* in different parts of country is to ensure that the children of Central Government employee do not suffer because of different curriculum and courses stipulated by the State Boards.

5. Learned counsel for the petitioner has drawn our attention to paragraph 2 of the impugned order dated 20th August, 2016, which quotes from the decision of the Supreme Court in ***Director of School Education, Madras & Ors. Vs. O. Karuppa Thevan & Anr.***, 1994 Suppl. (2) 666. In the said case the Supreme Court, noticing the fact that the employee's children were studying in a school, had observed that though there was no such rule, this fact must be given due weightage, if the exigencies of service are not urgent. In the present case, the transfer order was made on 20th May, 2016, nearly 10 month before the examination, which is to take place in March, 2017. When the transfer order was made, there was exigency as shown by the respondents, who have stated that 76 officers of Indian Ordnance Factories Service Cadre including the petitioner were transferred to different Units on functional requirements after considering the tenure of the officers. In the Machine Tool Prototype Factory at Ambernath, there was acute shortage of Group 'A' officers of Junior Administrative Grade. As against the sanctioned strength of 7 Junior Administrative Grade Officers, only 4 officers were stationed. As far as the Ordnance Factory at Muradnagar, Ghaziabad is concerned,

there were 28 Junior Administrative Grade Officers as against the sanctioned strength of 27 officers.

6. It is not alleged that the transfer in the present case is mala fide or otherwise on extraneous considerations. Learned counsel for the petitioner has submitted that after the transfer order was passed, some other Junior Administrative Grade Officers have joined at Ambernath, Maharashtra and some of them have the requisite experience and background in electronics. This, to our mind, would not vitiate or compel us to put the transfer order dated 20th May, 2016 in abeyance.

7. However, noticing the fact that the petitioner would take about 30 days to settle down at the new accommodation at Ambernath, Maharashtra and during this period, the petitioner's son studies may get affected, it is directed that the petitioner would be allowed to retain the government accommodation at Muradnagar, Ghaziabad for a period of 30 days from the date petitioner joins the transfer posting and is given official accommodation at Ambernath, Maharashtra. The petitioner for this purpose will pay normal charges as applicable to government accommodation at Muradnagar, Ghaziabad. We have given the said concession so that the petitioner's son can continue to

study in Kendriya Vidyalaya, Muradnagar and would shift to Ambernath, Maharashtra only after the petitioner has shifted to the new accommodation and set up the house there.

8. With the aforesaid observations and directions, the writ petition is disposed of.

SANJIV KHANNA, J.

SUNITA GUPTA, J.

SEPTEMBER 22, 2016
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