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

+ W.P.(C) 10422/2016, CM No. 40905/2016

SQN LDR MANISH KUMAR SHUKLA Petitioner
Through: Mr. G. Sivabalamurugan, Ms. M.
Theepa and Mr. Anand Panday, Advs.

versus

CHIEF OF AIR STAFF & ORS. Respondents
Through: Mr. Bhagwan Swarup Shukla, CGSC
with Ms. Priti Verma, Adv.

CORAM:
HON'BLE MS. JUSTICE INDIRA BANERJEE
HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER
% **04.11.2016**

W.P.(C) 10422/2016

1. This writ petition is directed against an order of transfer dated September 29, 2016 whereby the petitioner has been transferred from Delhi to Jamnagar in Gujarat. The impugned order is opposed on the ground that the petitioner has been pursuing LL.B. Course in Delhi, pursuant to the permission granted by the respondent authorities, for which he needs to remain in Delhi for another six months or so.

2. The short question in this writ petition is, whether an Officer of the Indian Air Force on short commission can, as a matter of right, oppose an order of transfer on the ground of his pursuing an educational course, which

is not related to his service in any manner. The answer to the aforesaid question has to be in the negative.

3. The petitioner is a Fighter Controller with specialized training as indicated in a letter dated 17th June, 2015 written by the petitioner seeking extension of service in the Indian Air Force. The relevant part of the said letter is extracted herein below for convenience:

“I was commissioned in Indian Air Force on 15 Dec 06 in Administration Branch. My initial engagement with IAF of ten years would complete by next year, i.e., 15 Dec 06. I am interested in serving with a highly honoured organisation as an Indian Air Force officer and if given an opportunity, would like to continue in service as a Permanent Commissioned officer.

I am a Fighter Controller with present controller category as Cat ‘BEE’ and additional trained in IGLA Missile System with Exceptional Grading in IGLA Op Officer Course.”

4. As a Fighter Controller with specialized training, the petitioner is obliged to render services wherever his services may be required. It is not for this Court to determine where exactly the services of the petitioner might be required. Mr. Shukla appearing on behalf of the respondents submits that the services of the petitioner are required in the Indo-Pakistan border areas of Gujarat and the petitioner has accordingly been posted at Jamnagar.

5. The petitioner by his letter dated 17th November, 2014 sought permission to pursue LL.B. Course (evening classes) on the assurance

that pursuit of the course would not hamper any service requirements or unit commitments during the said course. Transfer is an incident of service. It is a service requirement and the same cannot be opposed. The petitioner does not have any vested right to remain in any particular place to complete an educational course, notwithstanding exigencies that might require his service elsewhere.

6. A writ may be for enforcement of a constitutional right or a legal right or may be, in a given case, even equitable rights. However, having obtained permission to pursue the LL.B. Course on the specific assurance that this will not interfere with his service requirements, the petitioner does not have any right whatsoever to resist a transfer order. The writ petition is, therefore, devoid of merit.

7. Learned counsel appearing on behalf of the respondents, Mr. Shukla submits on instructions that the petitioner may be allowed leave to appear for the examination as and when necessary. In view of such submission, there is no question of interference with the impugned order.

8. The writ petition is disposed of. The petitioner may be given 7 days' time to join the transferred post, which he shall positively join within 14th November, 2016.

9. *Dasti.*

CM. No. 40905/2016 (for Stay)

Dismissed as infructuous.

INDIRA BANERJEE, J

V. KAMESWAR RAO, J

NOVEMBER 04, 2016/jg