

\$~19

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

+ **W.P.(C) 11335/2015**

PRADEEP GUR

..... Petitioner

Through: Mr. R.K. Saini, Mr. Z.A. Khan and Ms.
Minal Sehgal, Advs.

versus

UNITED INDIA INSURANCE CO. LTD.

..... Respondent

Through: Mr. P.P. Malhotra, Sr. Adv. with Mr.
Vineet Malhotra and Mr. Vishal Gohri, Advs.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

%

10.08.2016

1. It is the petitioner's case that he is due for retirement on 30th September, 2017, however, he has been transferred to the respondent's Chennai Office in contravention of respondent's own extant policy known as Transfer and Mobility Policy for Officers. The learned counsel for the petitioner refers to clause G. of the said policy, which reads as under:

“..... G. OFFICERS DUE TO RETIREMENT WITHIN 2 YEARS

Officer who are due for retirement on Superannuation within 2 years reckoned from 1st April of the year in which transfer/posting is effected shall not be transferred unless necessitated by extenuating circumstances, provided he will not be holding a sensitive post.

"Request for transfer from an officer to his declared hometown or place of choice during the last 2 years of this service would be considered subject to vacancy provided no further transfer benefits shall be allowed at the time of retirement"....”

2. It is contended that the officer was transferred on 18th August, 2015, which is less than two years before his superannuation, therefore, the transfer ought not to have been made to a place inconvenient to the petitioner. The present transfer of the petitioner, to Head Office at Chennai, is therefore against the said policy.

3. Mr. P.P. Malhotra, learned Senior Advocate for the respondent submits that petitioner is a scale-V officer, designated as Manager, while the policy is applicable only to officers upto scale –IV i.e. upto the rank of Deputy Manager. He refers to clause B. of the policy, which reads as under:

“.....B. APPLICABILITY

i. These guidelines will come into effect from 1st June 2002.

ii. These guidelines are applicable to all Officers up to the rank of Deputy Managers. Transfers/Posting of Officers in the rank of Managers and above shall be at the discretion of the Management keeping in view Office exigencies and distinct nature of duties of Officers of these cadres.

iii. These guidelines are not applicable to Officers (a) posted/deputed to foreign operations....”

4. This position is not controverted to by the learned counsel for the petitioner. It is not in dispute that the petitioner is working as a Manager, therefore, on the face of the record the policy would not be applicable to the petitioner.

5. There is no substance in the writ petition. It is, accordingly, dismissed.

6. At this stage, Mr. Saini, learned counsel for the petitioner, says that since clause (b)(ii) of the policy itself makes discretion to company to consider any representation in this regard compassionately, the petitioner would make another representation to the respondent.

7. Mr. Malhotra, learned Senior Advocate, states that the discretion is only

apropos representation under the said policy; that earlier a representation was considered and rejected in the facts of the case. However, it will be open to the petitioner to make another representation if he so chooses, which the respondent would consider in due course.

NAJMI WAZIRI, J

AUGUST 10, 2016^{/kk}