

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 5677 OF 2017

Captain Vikram Singh

...Petitioner

Versus

Union of India & Ors.

...Respondents

Ms.Smita Gaidhani i/by M/s. Thakore Jariwala & Associates for the
Petitioner.

Mr.Neel Helekar i/by Mr.Aniruddha Garge for Respondent No.1.

**CORAM : SHANTANU S. KEMKAR &
M.S. SONAK, JJ.**

DATE : 15th JUNE 2017

P.C. :

1. Not on board. Upon mentioning taken on board.

2. Feeling aggrieved by the order dated 25th April 2017 (Exh.F) issued by the Respondent No.3, by which the petitioner has been transferred from Mumbai to Vishakapattnam, the petitioner who is Captain in Naval Command, has filed this petition. According to the petitioner his son is suffering from Autism and he is being treated at Mumbai and as such petitioners presence at Mumbai with him is necessary for his betterment and cure.

3. The learned counsel for the respondent submits that in pursuance to the transfer order the petitioner has already joined at transferred place and he has been given facility to retain the quarter for a period of one year. It is not in dispute that challenging the said transfer order the petitioner has filed representation as provided under the relevant rules of the respondents. Before the Authority the petitioner submitted the Medical Certificates and the opinion of Autism Diagnostic Clinic about the ailment of the petitioner's son but without taking into consideration the same, representation has been dismissed recording that his case has been examined and the prayer not acceded to. Thus according to the learned counsel for the petitioner there is no consideration of the various grounds raised by the petitioner in the representation particularly about ailment of the petitioner's son requiring cancellation of his transfer.

4. Having gone through the order which has been placed before us by the learned counsel for the respondent it appears that authority while rejecting petitioners representation against the transfer order has not taken into consideration the ailment of the petitioner's son and passed the order without application of mind. In the circumstances we are inclined to dispose of this petition by remanding the matter back to the Authority to reconsider the

representation and take a fresh decision, keeping the view the ailment of the petitioner's son. While taking the decision the Authority shall take into considerations the office memorandum dated 06th June 2014 and 17th November 2014. It also open for the petitioner to submit fresh representation with supporting documents before the Authority within two weeks from the date of receipt of copy of this order and the Authority shall take fresh decision by passing a speaking order in regard to the petitioners representation against the impugned transfer order. Let this aforesaid decision be taken by the Authority within two weeks from the date of receipt of the fresh representation. The petition is disposed of.

5. Parties to act on the authenticated copy of this order.

(M.S. SONAK, J.)

(SHANTANU S. KEMKAR , J.)