

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****Date of decision: 15.03.2017****CWP No.14488 of 2016**

Devender Kumar

...Petitioner

Vs.

Union of India & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Rajeev Anand, Advocate, for the petitioner.

Mr. Pawan Kumar Longia, Advocate, for the respondents.

RAJIV NARAIN RAINA, J. (ORAL)

Today, Mr. Rajesh Kumar Solanki, Deputy Commandant (Law), NW Sector, Chandigarh is present in Court though he was not called but came to assist the counsel for the Union of India/CRPF. I have heard him personally on the issue crystallized in the interim order dated 14.02.2017. I have heard Mr. Rajeev Anand, learned counsel appearing the petitioner and Mr. Pawan Kumar Longia representing the Union of India at some length.

The petitioner had enjoyed posting in Chandigarh for about 5 years and 9 months before he was deputed to Chhattisgarh in Anti Naxalite Operational Area (Left Wing Extremist Area) and, therefore, there is no question of his wife co-habiting with him at his present place of posting or near about. Prior to his posting in Chandigarh, the petitioner had served at Pallipuram (Kerala), Srinagar (J&K), Odisha and Warrangal (A.P.), the details

of which have been given in Para.1 of the preliminary objections taken in the written statement filed by the CRPF.

The relevant extract from the order dated 14.02.2017 is reproduced below to form part of the final order:

“Mr. Anand submits that wife of the petitioner suffers from a medical issue, which had led to the birth of a child with the congenital heart disease, therefore, the child died. He further submits that his client's wife has Gynecology problem relating to ovalution. They were married in the year 2006 and are issueless with the death of the first born. The couple wants to start a family and for this co-habitation is necessary. The petitioner is posted in an Anti Naxalite Area in Chhattisgarh, which is non-family station.

Mr. Longia seeks instructions from CRPF as to why the wife of the petitioner cannot be accommodated in a CRPF complex at Headquarters or as close as possible from where the petitioner serves so that the couple may conceive a child after which confirmation the wife would return to her matrimonial home/native village.

Adjourned to 15.03.2017.

To be shown in the urgent list.”

Keeping in view the legitimate hope that the petitioner and his wife have to start a family, this petition is disposed of with a direction requesting the competent authority in CRPF to consider the subject matter sympathetically for any posting, where the husband and wife can cohabit and such an opportunity may be given after the minimum time is served in Chhattisgarh and in this consideration to avoid any overstay.

This Court trusts the CRPF will remain guided by Article 51(j) of our Constitution to decide the case at the appropriate stage with a spirit of humanism and in recognition of desire the couple may have to bear offspring before it is too late with 11 years of marriage behind them and the pain of

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premature death of a new born they must have experienced, the wife fraught with medical problems.

15.03.2017
Vimal

[RAJIV NARAIN RAINA]
JUDGE

Whether speaking/reasoned: *Yes*

Whether Reportable: *No*