

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.21334 of 2016(O&M)

Date of decision: 19.1.2017

Lieutenant Colonel Mahipal Lather

... Petitioner

Versus

Union of India & ors.

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Manjeet Singh , Advocate,
for the petitioner.

Ms. Anita Balyan, Advocate,
for the respondents-UOI.

RAJIV NARAIN RAINA, J.(Oral)

The petitioner obtained a stay order from this Court on 7.10.2016, which suspended the operation of transfer order dated 29.9.2016 transferring the petitioner from Abohar and posting him to Kolkata. The stay order meant that he would continue in Abohar. But the stay was granted only till the next date of hearing i.e. 24.10.2016. There is no subsequent order continuing the operation of the said order and therefore, the impugned order no longer operates.

However, the petitioner is not satisfied with his posting at Abohar since he has a medical condition which demands expert medical attention from the specialist doctors. He is also not happy with his posting at Kolkata and wants to stay back in Jaipur from where he came to Abohar on transfer. Therefore, no orders are required to be passed on the vacation of stay application (C.M. No.532 of 2017) which has apparently been filed without inspecting the record.

Looking to the medical condition of the petitioner and the fact that he has made a statutory representation requesting to be posted

back at Jaipur and the same has not been considered and decided so far, this petition can more effectively be disposed of with a direction to the respondents to sympathetically and with as much human compassion as possible within the demands of service and the period of service left, consider the representation of the petitioner consistent with his medical condition and take a final decision within one month from the date of receipt of a certified copy of this order. Though the stay order has ceased to exist not having been continued expressly, but still in the interest of justice status quo as it exists today is ordered to be maintained till the decision is taken. In making the final decision, it is expected that the Army authorities will hear the petitioner on all the points raised by him, including the protection under the The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 and Office Memorandum dated 31.3.2014 before forming opinion.

With these observations and directions, the petition stands disposed of.

(RAJIV NARAIN RAINA)
JUDGE

19.1.2017
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<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether Reportable:</i>	<i>No</i>