

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CM No.699 of 2017 in/&
CWP No.4320 of 2016 (O&M)
Date of decision: 23.02.2017

Rakesh Singh Gusain

.... Petitioner

versus

Union of India & Ors.

.... Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. R.D.Bawa, Advocate
for the petitioner.

Mr. Vivek Chauhan, Advocate
for the respondent No.1.

Rajiv Narain Raina, J.(Oral)

CM No.699 of 2017

Allowed as prayed. Order dated 12.01.2017 (Annex R-9) is
taken on record subject to just exceptions.

CM stands disposed of.

CWP No.8220 of 2006

This petition has been filed against the order transferring the petitioner to Kohima (Nagaland). He made a request for cancellation of the order on the ground that his son is a special child suffering from 75% intellectual disability and needs care and access to a school for children with special needs which his place of transfer does not offer. The petitioner had located a school at Rishikesh suggested by friends where his child could be admitted. His request was accepted and GREF transferred him to Rishikesh. In Rishikesh, he discovered the school for children with special needs is a private school and there is no government school available in Rishikesh for

special children.

Learned counsel for the petitioner submits that had he known of this position on the spot of there being no school of the kind the family was looking for then he may not have taken the decision to go to Rishikesh in the first place. He submits that the private school is very expensive and beyond the petitioner's reach. If this is the position, then it would not be possible to call upon the respondent-GREF to transfer him elsewhere. Therefore, in order to serve the ends of justice, the application for recalling of the order 05.12.2016 is allowed.

The petitioner has made a request in terms of the order dated 22.12.2016 to the authority of GREF to retain him at Chandigarh but that request has been turned down on the ground that there is scarcity of man power in the Force coupled by reason that he has completed 5 years of compassionate posting. The petitioner has been stationed in GREF Chandigarh for the last five years.

I find no ground to interfere in that order. Accordingly, both the application and the writ petition are dismissed.

However, the Court is informed that the petitioner's elder son, who is in 10+2 class and is preparing for his final examinations commencing 9th March 2017 with the last paper on April 22, 2017 and any disruption caused by the transfer would unduly disturb the studies of the elder son if they are called upon to vacate the official quarters/Govt. accommodation immediately.

In these special facts and circumstances, a request-direction is issued to respondent No.3 to consider permitting petitioner to remain posted in Chandigarh and let him continue attending to his duties in Chandigarh till

April 30, 2017 after which the family can move to Rishikesh. This arrangement is on humanistic grounds to provide stability of home life and an opportunity to his elder son to appear for his papers in peace and complete the present crucial leg of his academic life. Meanwhile, the family would be permitted to retain the government accommodation allotted to the petitioner till April 30, 2017.

23.02.2017
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(RAJIV NARAIN RAINA)
JUDGE

1. *Whether speaking/reasoned?*
2. *Whether reportable?*

Yes
No