

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

Date of decision: 16.03.2017

CWP No.678 of 2016 (O&M)

Jatinder Singh

...Petitioner

Vs.

Union of India & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Arihant Jain, Advocate, for the petitioner.

Ms. Balwinder Kaur, Advocate, for the respondents.

RAJIV NARAIN RAINA, J. (ORAL)

The petitioner is a member of the Border Security Force (BSF) posted as an Assistant Sub Inspector in 141 Bn., BSF, Madhopur, Punjab. He has a long career of postings. He has to his credit 25 years & 2 months of normal tenure of posting; 4 months of hard posting and 2 years and 1 month of extreme hard posting in East, West & others. By the impugned letter dated 09.12.2015, he has been transferred from Madhopur (Punjab) to Shillong, Meghalaya. He says he is undergoing treatment by PGI, Chandigarh of Lumbar Spine problem. He is being treated at Fortis Hospital, Chandigarh as well. He has approached this Court against the letter of transfer on health and extreme compassionate grounds. He had requested for a transfer nearby to avail medical facilities. He says no personal opportunity of hearing was given before posting him to Shillong. He still suffers from PIVD L 4-5, LS-SI with Sciatic Rt., which requires at least 6 weeks bed rest for restoration of health. He is on bed rest at the time

of filing of the petition. The directions are sought to quash the transfer order dated 09.12.2015.

On 14.01.2016, while issuing notice of motion, operation of the impugned order was stayed.

On notice, the respondents have put in their written statement stating that BSF is alive to his medical condition and Shillong offers specialist medical facilities to take care of his condition, if required. They have denied understand of injury which petitioner says caused the medical problem. He has appeared before the Medical Board at Gurdaspur in August, 2014 and was placed under Low Medical Category as S1H1A3 (T-48)P3(T-48)E1 for a period of 48 weeks w.e.f. 23.08.2014 as a case of 'PIVD (L4-L-5, L5-S1) with LES with obesity with HT'. Necessary entry has been made in the service record of the petitioner. It is pleaded that six personnel in 141 Bn., who are of Low Medical Category suffering from serious Disc/Spine related problems are serving in their places of transfer without challenge. The petitioner is using his medical condition to avoid leaving his home State of Punjab and by raising such a plea he has trying to undermine the functioning of the discipline of the force, where nothing but merit is the basis of all decisions. His request for continue stay in Punjab was duly considered at Force Headquarter, New Delhi and it has been decided that he would be placed in the capital of the Meghalaya Frontier for his best treatment where specialized facilities are available in premier hospitals. He has had a long run of normal postings disproportionate to hard and extreme hard tenures. His medical needs have been catered to while posting him to Shillong. The written statement has been verified at Shillong on 16.03.2016.

I have heard learned counsel for the petitioner and the respondents and find no reason to interfere in the posting. So long as the medical condition of the petitioner is ensured for proper treatment in the capital of Shillong, then I have no reason to interfere for malingers. The transfer order does not suffer from malice, perversity or illegality, which may warrant intervention of this Court in writ proceedings. Therefore, continuance of stay order after one year and two months is not justified.

As a result, this petition is devoid of merit and is dismissed.

16.03.2017
Vimal

[RAJIV NARAIN RAINA]
JUDGE

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