

\$~26.

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 1246/2017**

AJOY KARMOKAR

..... Petitioner

Through Mr. Divya Garg, Advocate.

versus

UOI AND ORS.

..... Respondents

Through Mr. Deepak Vohra & Mr. Abhinav
Agnihotri, Advocates for respondent Nos. 1 to 4.

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE CHANDER SHEKHAR

ORDER

14.02.2017

%

Learned counsel for the petitioner submits that the report/complaint made by Madhu Sharma was the edifice why the petitioner was transferred. He submits that there was violation of principles of natural justice as the comments of the petitioner were never sought and the petitioner did not give and furnish his explanation.

2. The transfer order is not stigmatic. It is not so stated and averred. It is the accepted and admitted case that no charge memo was issued to the petitioner with regard to the said complaint.

3. The petitioner was transferred on 17th August, 2015 and on the same date fourteen other officers were transferred. About a week earlier on 12th August, 2015, 157 officers were transferred. Mere fact that there was a separate transfer order dated 17th August, 2015 in the case of the petitioner

would not show and establish that the transfer of the petitioner was punitive and stigmatic.

4. The petitioner has worked in Delhi for over six years.

5. The impugned order records that the officers against whom allegations of mala fides were raised were not parties before the Tribunal. This is an accepted and admitted position.

6. The petitioner has submitted that the transfer could be on account of the petitioner's objection as recorded in the last paragraph of the audit report, which was not taken in the right spirit by the Chairman of the Committee. On the said aspect also, we would notice that the said Chairman, Mr. Satyendra Kumar, Assistant Controller of Accounts was not made a party to the OA.

7. We do not think that the said order of transfer *per se*, in the present case, can and should be construed as an order, which was by way of a punishment or stigmatic. The petitioner has joined the transfer posting. We also clarify that if any adverse comments are recorded in the service records, on the basis of the said letter/complaint of Madhu Sharma, it will be open to the petitioner to question and challenge the same in accordance with law.

With the aforesaid observations, the writ petition is dismissed. No costs.

SANJIV KHANNA, J.

CHANDER SHEKHAR, J.

FEBRUARY 14, 2017
VKR/NA