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

+ W.P.(C) 1657/2017 & CM No.7440/2017

RAJESH KUMAR RANJAN Petitioner
Through: Mr.Ravindra S. Garia, Adv.

versus

AIR OFFICER COMMANDING & ANR Respondents
Through: Mr.Vikas Mahajan, CGSC with
Mr.S.S. Rai, Adv.
Mr.Ashok Kumar Chauhan, Wg. Cdr.
Legal Cell, AFRO.

CORAM:

HON'BLE MS. JUSTICE INDIRA BANERJEE

HON'BLE MR. JUSTICE ANIL KUMAR CHAWLA

ORDER

% **22.02.2017**

In this writ petition, the petitioner, an Airman has challenged transfer order No.RDC/681 dated 24.01.2017 whereby the petitioner has been transferred from Delhi to Chennai. The order of transfer has been challenged on different grounds. First of all, it is contended that the transfer is an outcome of an application made by him under the Right to Information Act seeking certain information with regard to a Gas Supply Agency.

From the averments in the writ petition, it is apparent that the concerned Gas Supply Agency is an agent of Indian Oil Corporation. It is an independent agency that has nothing to do with the Indian Air Force except to supply gas to individual personnel of the Indian Air

Force, residing with the area of operation of the Gas Agency. No case has been made out in the writ petition of any connection between the Gas Agency and any particular officer of the Indian Air Force which might have prompted the transfer.

There is a letter annexed to the writ petition indicating that the petitioner lodged a complaint against the Chief Administrative Officer and Security Officer of the Indian Air Force in the Delhi Cantonment Police Station. However, it does not appear that the Chief Administrative Officer and Security Officer are the Officers empowered to issue orders of transfer of Airmen.

It was next contended that the transfer was in contravention of Air Headquarters, Human Resource Policy, Part II/PA(Airmen)/PD/01/2013 issued by the Air Headquarters, Vayu Bhawan, New Delhi dated 21.11.2013. It however, appears that Paragraph 19 provides that considering the inconveniences caused to the Airmen on WIE (with immediate effect) movement, it would be endeavoured to ensure that posting orders were issued three months in advance, before completion of the tenure of the concerned Airmen. However, in the case of operational or administrative exigencies, Airmen might be shifted earlier than three months.

It is also contended that the normal tenure of Airmen is 4 to 5 years in a unit. However, from the Note 1 appended to Paragraph 6, it is clear that Airmen can be picked up for posting elsewhere before completion of the tenures mentioned in the Human Resource Policy depending on service exigencies. However, posting before completion of one year might only be done on clearance from Air

Headquarters. In this case the petitioner is being posted after completion of almost three years.

A perusal of Note 1 and in particular, the use of the expression 'posting out before completion of the tenure', read with the object and intention of stipulation of normal tenure, reveals that the tenure of posting at a particular station and / or a particular place is directory and mandatory and may be demated from if exigencies so require. In this case the petitioner was earlier posted in Gwalior. By an order dated 19.06.2015, he was posted in Delhi after which he has been posted in different units in Delhi.

Posting before completion of one year in a station is to be done on clearance from Air Headquarters. In this case, the petitioner has been in Delhi for over one year. It is stated that exigencies required the service of the petitioner in Chennai, in view of his specialisation in Information Technology.

It is not necessary for us to look into the reasons for the petitioner's transfer in the absence of any specific material showing that the transfer is either mala fide or contrary to any mandatory rules, and/or regulations. The policy guidelines referred to are only directory and clearly provide that Airmen can be picked up for posting out before completion of the tenure depending on service exigencies. It is for the concerned authorities to decide what are the service exigencies which are required for transfer of different personnel to different posts, individual officers and / or employees cannot have any say in this regard.

There can be no dispute that the services of Airmen serving the

Indian Air Force are transferrable. Such officers may be appointed in any station where the Indian Air Force operates subject to availability of the post held by the concerned Airmen.

The petitioner has hopelessly failed to discharge his onus of substantiating that the transfer is either mala fide or vindictive or contrary to any mandatory rules.

However, there does not appear to be any such exigency for which the requirement of the respondents themselves of notice of three months should be dispensed with. The order of transfer dated 24.01.2017 shall be kept in abeyance. The petitioner shall not be disturbed till 24.04.2017 being three months from the date of his transfer order. It is also argued that the petitioner has personal difficulties. If the petitioner had personal difficulties, the petitioner should have approached the authorities concerned and made a representation instead of approaching this Court. Be that as it may, if any representation is made, the same may be considered and disposed of in accordance with law by the competent authorities within reasonable time.

The writ petition is disposed of accordingly.

DASTI.

INDIRA BANERJEE, J

ANIL KUMAR CHAWLA, J

FEBRUARY 22, 2017/gm