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

+ W.P.(C) 1850/2017

BALLABH CHANDRA SHARMA Petitioner
Through Mr.Ankur Chhibber, Adv.

versus

UNION OF INDIA AND ORS Respondents
Through Ms.Shiva Lakshmi, CGSC with
Mr.Sriram Krishna & Mr.Ruchir
Ranjan Rai, Advs.with Mr.Seju
Sejwal, Law Officer-CRPF.

CORAM:

HON'BLE MS. JUSTICE INDIRA BANERJEE

HON'BLE MR. JUSTICE ANIL KUMAR CHAWLA

ORDER

% **28.02.2017**

C.M. No.8193/2017 (exemption)

Exemption allowed, subject to just exceptions.

The application is disposed of.

W.P.(C)1850/2017 & CM No.8192 (stay)

In this writ petition, the petitioner has challenged Signal Orders dated 23rd November, 2016 and 20th January, 2017 whereby the petitioner has been posted to the Office of Inspector General, Northern Sector, which is at R.K.Puram, New Delhi w.e.f., 28th February, 2017.

There can be no dispute that the service of the petitioner is transferrable. The order of transfer has been questioned on the basis of Standing Order No.07/2014 and in particular paragraph 2 (iii) thereof which is set out herein below for convenience:-

“2 (iii) Normal tenure from Asstt. Comdt. To DIG would be 03 years. No officer should be allowed to continue for more than a period of 03 years at stretch except Training Institution/Intelligence Set-up/Parliament Duty Group/Special Duty Groups/Signals/Legal Cells and CoBRA. The tenure of officer posted in Training Institution/Intelligence Set-up/Parliament Duty Group/Special Duty Groups/Signals/Legal Cell and CoBRA would be 04 years.”

By an order dated 14th November, 2014, the petitioner was posted at the Kadarpur Training Centre in Gurgaon.

The petitioner reported at the Kadarpur Training Centre on 24th November, 2014. The petitioner had been posted at the Kadarpur Training Centre for two years, when the impugned order dated 24th November, 2016 was issued. The petitioner would complete four years at the said Training Centre on 24th November, 2018.

From the language and tenure of Standing Order and in particular paragraph 2 (iii), it is patently clear that the prescribed tenure is directory and not mandatory.

The petitioner has completed two years at his place of posting. He has now been transferred to R.K.Puram in New Delhi. Gurgaon, is for all practical purposes, an extension of New Delhi. Thousands of people commute between New Delhi and Gurgaon to attend office, everyday.

It is argued that the petitioner has school going children, one of whom has entered Class X and the other is studying in Class XII. The child in Class XII is shortly to be appearing at the Board Examination. It is also argued that the petitioner has an aged mother (82 years), who is undergoing treatment in a Speciality hospital in Gurgaon.

The petitioner is only getting transferred to Delhi. The transfer order does not call for interference. Be it noted, most of the officers have school or college going children, aged parents and other dependent family members. If transfers were to be stalled on grounds like children's education, treatment of aged parents, treatment of family members, working spouse and the like, it would be impossible to run the administration, for every transfer would be opposed.

Posting of transferable employees is essentially an administrative function. This Court exercising jurisdiction under Article 226 of the

Constitution of India, does not sit in appeal over orders of transfer. Orders of transfer are interfered with only in rare cases, where the transfer order is patently vindictive and/or malafide and/or in patent contravention of mandatory statutory rules, regulations or orders.

We do not deem it appropriate to interfere with the Order of Transfer. Writ petition is therefore not entertained. However, considering that one of the children of the petitioner will be appearing in the Board Examination which is scheduled to end in the middle of April, 2017, the petitioner may not be disturbed from his accommodation till 15th April, 2017.

The writ petition and pending application are disposed of.

INDIRA BANERJEE, J

ANIL KUMAR CHAWLA, J

FEBRUARY 28, 2017/vp