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

+ W.P.(C) 3011/2017

SUMIT KUMAR

..... Petitioner

Through: Mr.S.K.Vashistha, Advocate

versus

UNION OF INDIA & ORS

... Respondents

Through: Mr.Abhishek Khanna, Adv. for
respondent No.1
Mr. Jagjit Singh, Sr. Standing
counsel with Mr. Sukhdev Singh and
Mr.Preet Singh, Advocates for
respondents No.2 & 4

CORAM:

HON'BLE MS. JUSTICE GITA MITTAL

HON'BLE MR. JUSTICE ANIL KUMAR CHAWLA

ORDER

10.04.2017

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CM No. 13187/2017 (Exemption)

Exemption allowed, subject to just exceptions.

Application stands disposed of.

W.P.(C) No. 3011/2017 & CM No. 13186/2017 (stay)

1. The petitioner is a Constable in the Railway Protection Force. Upon his arrest in FIR No. 134/2016 by the Police of Mandi, Govindgarh, the petitioner came to be suspended on 20.6.2016. It appears that disciplinary proceedings under Rule 153 of the Railway Protection Force Rules, 1987 were proposed against the petitioner and a charge sheet dated 20.1.2017 was served on the petitioner.
2. By an order dated 9.12.2016 the petitioner was directed to

mark his attendance in the daily register at RPF/Shahdara. During the period of his suspension, his Headquarter was directed to be the Shahdara post of the RPF.

3. The present writ petition lays a challenge to the order dated 8.2.2017 whereby he stands transferred and attached at RDSO, Lucknow. The order notes that the petitioner was absent without any information from his posting and that this information has been sent to the Divisional Office. The same communication notes that it has been ordered that a lenient view be taken on this conduct of the suspended constable be taken. Service of the order of transfer was also directed so that he proceeds to the Lucknow posting immediately to the RDSO, Lucknow in compliance of the order passed.

4. Before us, the petitioner has attempted to explain the circumstances for his leaving his posting which are to the effect that on 31.1.2017, his wife had suffered a miscarriage and that on 7.2.2017 his father had suddenly suffered brain stroke while visiting Karnal for some work.

No view is necessary to be taken on this aspect inasmuch as, by the letter dated 8.2.2017, the respondents' have themselves suggested that a lenient view be taken for his absence.

5. It is submitted before us by learned counsel for petitioner that his father continues to need assistance and therefore his transfer to Lucknow may be onerous. We find that the petitioner has not approached the respondents with any such request and hence we are not inclined to make any observation thereon. It is always open to

the petitioner to approach his employer with any difficulty which he is facing. We are positive that the respondents would consider the same in the light of the circumstances placed before them.

6. So far as the prayer for revocation of the suspension and the report of the Forensic Science Laboratory is concerned, the petitioner may make a request to the respondents in this regard as well.

7. In view thereof, no orders are called for on the prayer made in the writ petition, which is hereby dismissed.

8. It is, however, directed that in case the petitioner reports to his place to the RDSO, Lucknow within a period of ten days from today and submits a proper representation to the respondents explaining his difficulties and reasons for absence, a lenient view may be taken for his absence from 8.2.2017 till the date he reports to the competent authority.

9. We make it clear that we have not expressed any opinion on the merits of the petitioner's reasons as stated in this writ petition.

10. Dasti.

GITA MITTAL, J

ANIL KUMAR CHAWLA, J

APRIL 10, 2017

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