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

+ W.P.(C) 3132/2017 & CM Nos.13658/2017, 18533/2017

BIRPAL SINGH Petitioner
Through Mr.Raj Singh Phogat, Adv.

versus

UNION OF INDIA & ORS Respondents
Through Mr.Ravi Prakash, CGSC with
Mr.Nitish Gupta & Mr.Farman Ali,
Adv.

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

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17.07.2017

1. Mr.Birpal Singh in this writ petition impugns the order dated 23.01.2017 by which he was transferred from home zone i.e. Northern Zone to North East Zone and report to CISF Unit DSTPS (DVC) Andal in the State of West Bengal.

2. The contention of the petitioner is that this transfer in the last tenure of his service of 23 months would cause hardship on settling the pensionary dues. Son of the petitioner is doing B.Tech. from engineering college in Delhi and stays with him in the rented accommodation.

3. Learned counsel for the respondents has placed on record copy of the circular No.E-38011/1/2011/Estt.II-2752 dated 20.12.2011, which stipulates as under:

“II) OUT OF HOME ZONE/HOME ZONE TENURE FOR CONSTABLES, HCs, ASIs, SIs & INSPECTORS (EXCLUDING STENO, MINISTERIAL STAFF) OF NORTH SECTOR & EAST SECOR.

Basic Training Period: Neither to be counted in home zone nor out of home zone.

- a. 1st tenure – 09 Years in Unit in Out of Home Zone (excluding training)
- b. 2nd tenure - 10 years in Units of Home Zone
- c. 3rd tenure - 08 years in Out of Home Zone or more
- d. 4th tenure (remaining service) - To continue in OHZ will be considered for Home Zone subject to vacancies in Home Zone (vacancies should be calculated with stipulation that Home Zone should not have more than 50% of HZ personnel). Personnel will have to tender 8 years OHZ in 3rd tenure before this consideration starts and would be subject to stipulation that number of HZ personnel does not exceed 50% above and on merit (i.e. personnel with more OHZ service will be posted first).”

4. The petitioner, who belongs to the North Zone has completed service of 18 years and 10 months in home zone and about 14 years and 6 months of service out of home zone. As per the aforesaid policy, the petitioner in his fourth tenure is to be posted in OHZ i.e. outside home zone. However, he is considered for the home zone posting subject to vacancies in home zone and as per the seniority criteria mentioned in the policy. The petitioner has not made any allegation of this criteria is being violated or not adhered to in his case.

5. The petitioner has remained posted in Delhi for last six years since 13.06.2011 and is attached with CISF Unit, DMRC, Delhi.

6. In the aforesaid circumstances, we do not think that transfer

order, which is an administrative in nature and not punitive and in accord with the policy should be interfered with.

7. Learned counsel for the respondents has submitted that if any interference is made, there is likelihood of several requests by personnel who are in 4th tenure and to retire within next two years. Uniformity must be maintained. It is also pointed out that there are as many as 9 CISF personnel who are working in DMRC and are likely to retire shortly. There would be similar plea and request from them. Thus, the entire administration and functioning of the Armed Force would get affected.

8. By interim order dated 12.04.2017, the petitioner was asked to make a representation within 2 days, setting out the grounds required to be considered by the respondents. It was also directed that status quo of the order of transfer and posting of the petitioner would be maintained. The said order has continued. As we are not inclined to interfere with the order of transfer, the petitioner would have to join the transfer posting. The petitioner would join the same within four weeks from today. This period has been given to the petitioner as there was order of stay operating earlier.

9. With the abovesaid observation, the writ petition as well as pending application stand disposed of.

SANJIV KHANNA, J

NAVIN CHAWLA, J

JULY 17, 2017/vp