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

+ **W.P.(C) 4126/2017**

GAUTAM SINGH

..... Petitioner

Through: Mr. T.D. Yadav, Advocate.

versus

UNION OF INDIA & ORS

..... Respondents

Through: Mr. Ripu Daman Bhardwaj, CGSC
and Mr. T.P. Singh & Mr. Sahaj
Garg, Advocates for respondents
No.1 to 3/ UOI.

CORAM:
HON'BLE MR. JUSTICE VIPIN SANGHI
HON'BLE MS. JUSTICE DEEPA SHARMA

ORDER
15.05.2017

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The petitioner has preferred the present writ petition to assail the order dated 25.04.2017 passed by the Central Administrative Tribunal, Principal Bench, New Delhi (CAT/ Tribunal) in O.A. No. 1310/2017, whereby the said Original Application of the petitioner against his transfer has been dismissed.

The petitioner is serving as an Assistant Engineer in the Directorate General of Quality Assurance (DGQA) under the Ministry of Defence. Vide letter dated 24.03.2017, the DGQS issued a Rotational Transfer Posting

(RTP) order for the year 2017 in respect of 106 officials including the petitioner. The petitioner stands transferred from SQA E (V), Delhi to CQA (HV), Avadi. The Tribunal takes note of the fact that the petitioner has been serving at Delhi since 1992 when he was appointed in the DGQS on 11.09.1992. He has been serving in Delhi for almost 25 years and has never moved out. The reason given by the petitioner to oppose his transfer was that he is the Treasurer of the All India DGQA Engineers Association since November 2016 and, therefore, he is a protected employee whose transfer cannot be made. He also claimed that his younger son is studying in Class XII and he has to take admission in an Engineering College for which he has to withdraw money through his GPF. He stated that he may be transferred to HQ DQAV after June 2017. He also claimed that his other son is suffering from severe problem of bone joints. He has been diagnosed with HLA B27 positive and is under treatment. In support of first ground, i.e. he is Treasurer of the All India DGQA Engineers Association, the petitioner placed reliance on MOD Note No.13(4)60/5701/D (APPTS) dated 12.11.1950.

We have heard learned counsel for the petitioner. Learned counsel submits that while rejecting his representation a non-speaking one line order was passed by the respondent on 12.04.2017. We do not find any merit in the petitioner's submission. The impugned order contains adequate reasons to reject the petitioner's prayer opposing his transfer. It is shocking that the petitioner, who has served for 25 years in Delhi since 1992 should oppose his transfer. In our view, this itself tantamounts to exhibition of reluctance by the petitioner to serve the organisation and may call for disciplinary action. Pertinently, the joining time granted to the petitioner under the

transfer order has expired and he has still not joined at the transferred station.

We may also observe that reliance placed on the aforesaid MOD note dated 12.11.1950 itself may not be appropriate. The said MOD note is nearly 67 years old. Since then a lot has changed – means of communication, transportation, banking have undergone a sea change. In the year 1950, neither the Internet, nor e-mail, nor telegraphic transfers were available. The modes of transportation were also primitive and inadequate. The same cannot be said of today. Thus, the continued reliance on the said MOD note to resist transfer of office bearers of all the Employees Associations or Unions, in our view, cannot be permitted any longer. The respondents should, therefore, update their policy with regard to grant of protection to the office bearers of Employees Association and Unions in view of drastically changed circumstances.

The petitioner has chosen to file this petition despite being subjected to costs of Rs.25,000/- by the Tribunal. Since he has not joined his transferred post till date, we dismiss this petition with further costs of Rs.10,000/-.

VIPIN SANGHI, J

DEEPA SHARMA, J

MAY 15, 2017

B.S. Rohella