

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

Date of Decision: May 31, 2017

+ **CONT.CAS(C) 439/2017**

KRISHNA KUMAR SINGH Petitioner
Through: Mr. A.K. Bhardwaj, Ms. Priyanka
M. Bhardwaj and Md. Jangra,
Advocates

versus

SANJAY MITRA & ORS Respondents
Through: Ms. Amrita Prakash, Advocate
with Mr. A.K. Mishra, Executive
Engineer (Selection Grade)

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT
(ORAL)

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Vide order of 24th April, 2017, a Division Bench of this Court in W.P. (C) 3477/2017 titled *Krishna Kumar Singh v. Union of India and Ors.*, had directed respondents to issue requisite document to facilitate the joining of petitioner at the place of posting given to him.

Petitioner had filed an Original Application No.3562/2016 (for short O.A.) titled *Krishna Kumar Singh v. M/o Defence* and vide interim order of 4th February, 2016, it was directed that no coercive action be taken against petitioner. The action which was sought to be taken against petitioner was to move him out of Delhi to another place. The above O.A. was dismissed vide order of 5th September, 2016 and was subjected to

challenge in W.P. (C) 8298/2016 by petitioner. The said writ petition was disposed of vide order of 19th September, 2016 while remanding the matter back to the Tribunal with clarification that interim protection granted to petitioner shall continue till the Original Application is heard or the interim protection is modified by the Tribunal. Vide order of 16th November, 2016, the Tribunal had extended the protection granted to petitioner in the O.A.. Again petitioner's Original Application was dismissed vide order of 22nd February, 2017 and against the said dismissal of the Original Application, W.P. (C) 3477/2017 was filed by petitioner which stood disposed of vide order of 24th April, 2017 with direction that respondent shall issue requisite document to facilitate joining by petitioner at the place of posting given to him.

In this petition, non-compliance of the order of 24th April, 2017 is alleged.

Upon notice, learned counsel for respondents places on record copy of order of 16th May, 2017, which is purportedly in compliance with the direction issued by Division Bench of this Court on 24th April, 2017. In the aforesaid Communication of 16th May, 2017, it has been stated that movement order of 10th May, 2016 has been already received by petitioner and this is sufficient to facilitate petitioner's joining at the new unit i.e. GE(S) (Patiala).

Learned counsel for petitioner submits that the respondents' Communication of 16th May, 2017 does not take note of the fact that movement order of 10th May, 2016 was effectively stayed by the courts with direction that no coercive steps be taken against petitioner.

Learned counsel for respondents has produced before this Court a Communication of 10th January, 2017 by the Chief Engineer, Delhi Zone and it is addressed to Chief Engineer (Headquarters), Western Command, Chandi Mandir, which indicates that interim direction issued by the Courts of not taking any coercive action, has been misinterpreted by the authorities concerned to assert that it does not mean stay on posting and so, it is proposed that he be declared absent as he stood effectively relieved from here on 10th May, 2016.

To ensure the effective compliance of directions issued by Division Bench of this Court on 24th April, 2017, it is clarified that interim direction of not taking any coercive action against petitioner means that there is stay on his transfer.

In view of aforesaid clarification, the Executive Engineer (Selection Grade) present in the Court submits that fresh movement order would be issued to petitioner within a week. Upon receiving the fresh movement order, petitioner shall join the new place of posting within a week.

With aforesaid direction, this petition is disposed of.

Copy of this order be given *dasti* under signatures of Court Master to both the sides.

(SUNIL GAUR)
JUDGE

MAY 31, 2017

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