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

+ **WRIT PETITION(CIVIL) No. 10448/2016**

Date of decision: 18th September, 2017

YOGENDER KUMAR Petitioner

Through Mr. Pramod Kumar, Advocate.

versus

UNION OF INDIA & ANR. Respondents

Through Mr. Kirtiman Singh, CGSC
alongwith Mr. Waize Ali Noor and Vivek
Singh, Advocates.

CORAM:
HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MR. JUSTICE NAVIN CHAWLA

SANJIV KHANNA, J. (ORAL):

C.M. No. 33644/2017

We are not inclined to recall our order dated 16th August, 2017 closing the right of the petitioner to file rejoinder affidavit. Counter affidavit, it is noticed, was filed on 28th April, 2017.

We also notice that the petitioner has not filed a copy of the rejoinder affidavit even with the application seeking permission to file rejoinder affidavit.

The application is dismissed.

WRIT PETITION(CIVIL) No. 10448/2016

The petitioner is a Constable in Central Reserve Police Force. He impugns transfer/movement order dated 21st October, 2016 and 24th October, 2016 requiring him to report to 23rd Battalion stationed at Srinagar, Jammu and Kashmir.

2. The petitioner was earlier posted in the Law Directorate, New Delhi on 10th March, 2016.

3. The grievance made by the petitioner is that he has been singled out, whereas there are other officers, who continue to remain posted in Delhi. It is asserted that tenure of service in choice posting area is four years, whereas the petitioner has been transferred from the place of choice posting within fifteen months by adopting pick and choose policy.

4. By order dated 4th November, 2016 notice was issued, but no interim order was passed and it was observed that the order of transfer would abide by the final result in the writ petition. The petitioner consequent thereto has joined and complied with the transfer posting.

5. Order dated 4th November, 2016 had directed the Deputy Inspector General (Establishment) to consider the representation-Annexure P-4 made by the petitioner. The representation has been considered and disposed of vide order dated 28th November, 2016. We have reservations on some of the observations made in paragraph 6 of the order dated 28th November, 2016. However, we are not

inclined to interfere with the transfer and movement order in the present case.

6. The tenure profile of the petitioner would indicate that the petitioner was posted in Delhi from 15th March, 2009 till 23rd November, 2012, for about three years and eight months. The petitioner thereafter on 9th July, 2015 was posted in Delhi in the Director General's office. The petitioner had a tenure of fifteen months in Delhi till the movement order dated 21st October, 2016. The order dated 28th November, 2016 of the Deputy Inspector General (Establishment) would show that there were difficulties in retaining the petitioner in his earlier posting in the Law Department. It was necessary to transfer the petitioner on administrative grounds. The petitioner, it is pointed out in the counter affidavit, has had peace or soft area posting for nearly four years and ten months. The petitioner has had hard area posting for about five years and five months. The last hard area posting was between 22nd May, 2013 to 8th July, 2015 in Paturpura. These factors have been taken into consideration.

7. The respondents have clarified that Constables are not specifically attached to a particular battalion and get transferred from one battalion to the other and depending upon the place where the battalion is situated/located and the Constables like the petitioner get posted.

8. Counsel for the petitioner, during the course of arguments, wanted to raise new assertions orally, which were not adverted to in the writ petition. We have not allowed the petitioner to make the said

assertions. In fact, after some time, counsel for the petitioner states that he would not press the oral assertions.

9. In view of the aforesaid discussion, we do not find any reason to interfere with the movement/transfer order and accordingly the writ petition is dismissed, without any order as to costs. We hope and trust that the filing of the writ petition would not be construed as a negative factor on conduct in the service record of the petitioner.

SANJIV KHANNA, J.

NAVIN CHAWLA, J.

SEPTEMBER 18, 2017
VKR/MR