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

% *Date of Order: February 26, 2018*

+ **W.P.(C) 1784/2018 & CM 7387-7388/2018**

BALBIR SINGH

..... Petitioner

Through: Mr. Ravindra S. Garia and
Mr. Shashank Singh, Advocates

Versus

B.S.E.S YAMUNA POWER LTD. AND ANR..... Respondents

Through: Mr. Sandeep Prabhakar, Advocate
for R-1
Ms. Jyoti Taneja, Advocate for
GNCTD

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER
(ORAL)

1. Quashing of the transfer order of 8th December, 2017 (*Annexure P-1*) and the communication of 31st January, 2018 (*Annexure P-2*) is sought by petitioner who is shift in-charge with respondent – BSES and he claims to be a trade union leader and General Secretary of DESU Mazdoor Sangh for last several years.

2. In the first round of litigation, respondent – BSES was directed to decide petitioner's Representation of 12th December, 2017 (*Annexure P-31*) which now stands decided vide impugned communication 31st January, 2018 (*Annexure P-2*) which discloses that petitioner's new place

of posting is around 13 kilometres away from his residence and so is in consonance with the Transfer Guidelines of 21st January, 2000 (*Annexure P-5*). Regarding the allegations of malafide and harassment made by petitioner, impugned communication repeals it while observing that these allegations are bald and vague.

3. Regarding medical ailment of petitioner and his family, impugned communication relies upon an order of Madhya Pradesh High Court, wherein it has been held that an employee does not have any indefeasible right to get transferred to a nearby place on medical grounds.

4. Upon hearing and on perusal of the impugned Communication of 31st January, 2018 (*Annexure P-2*), I find that the ground of petitioner's medical ailment has not been dealt with in the right perspective. It is no doubt true that respondent has an indefeasible right to transfer an employee but the said transfer need to be in conformity with the transfer policy and should also be in tune with the ground realities. Petitioner's medical ailment and of his two dependent sisters suffering from cancer, is not disputed in the impugned Communication.

5. In view thereof, respondent is required to reconsider petitioner's transfer as it is required to be clarified as to why petitioner cannot be posted to a place nearby his residence in view of his medical condition as reflected in the medical certificates (*Annexure P-34 to Annexure P-36*). This aspect is vital and it is required to be adverted to by the respondent. Let reconsideration of petitioner's transfer be done within a period of four weeks and petitioner be accordingly intimated within a week thereafter, so that petitioner may avail of the remedies as available in law. Till the

needful is done, petitioner's medical leave be further extended subject to verification of the medical documents.

6. With the aforesaid directions, this writ petition and the applications are disposed of.

(SUNIL GAUR)
JUDGE

FEBRUARY 26, 2018
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