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

+ W.P.(C) 8974/2018 and CM APPL. 34625/2018

L.R. VISHWANATH Petitioner

Through: Mr. V.K. Misra, Advocate

versus

UNION OF INDIA AND ORS Respondents

Through: Bhagvan Swarup Shukla, CGSC

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

% **13.09.2018**

1. The petitioner is aggrieved by an order dated 31.07.2018, passed by the Central Administrative Tribunal, dismissing O.A. No.2865/2018 filed by him praying *inter alia* for setting aside his transfer order dated 04.07.2018 and for posting him back to Delhi.

2. This is the second original application that was filed by the petitioner before the Tribunal. The first application, registered as O.A. No.4563/2017, was filed by the petitioner challenging his transfer order dated 24.11.2017 to PIB, Vijaywada. The said O.A. was disposed of by the Tribunal vide order dated 21.12.2017 by permitting the petitioner to continue on the post of ADG, Doordarshan, at Delhi till 07.04.2018. Further, the petitioner was directed to join at PIB, Vijaywada in terms of the transfer order dated 24.11.2017, in the second week of April, 2018. The petitioner was also

directed to file an undertaking before the Tribunal that he would comply with the aforesaid directions, failing which he was cautioned that he would be liable for contempt.

3. Pursuant to the aforesaid order, the petitioner reported at Vijaywada on 20.04.2018 and in less than one week therefrom, he started submitting representations to the respondents, requesting that he be posted as ADG at Delhi. When the respondents declined his request, the petitioner filed a miscellaneous application before the Tribunal in the disposed of O.A. No.4563/2017. In the said application, the petitioner sought modification/recall of the order dated 21.12.2017 to the extent that he had been directed to join as ADG, PIB, Vijaywada and further sought to withdraw his undertaking as given to the Tribunal. Lastly, the petitioner sought directions to the respondents to post him as Director General against the vacancy in Delhi. While declining to entertain the said application, vide order dated 15.05.2018, the Tribunal directed the respondents to consider the petitioner's representation dated 24.07.2018, seeking his transfer from PIB, Vijaywada to Delhi and pass appropriate orders thereon.

4. In compliance with the aforesaid order, the respondents issued a detailed memorandum dated 27.07.2018, recording *inter alia* that the petitioner's request for being transferred back to any Media Unit in Delhi could not be accepted and subsequently, he had been promoted to Selection Grade of IIS Group 'A' of Director General level and on promotion had been posted as Director General (South), PIB, Chennai vide order dated 04.07.2018, where he had taken over the charge on 13.07.2018. The said memorandum further records that after joining as Director General (South),

PIB, Chennai, the petitioner had submitted yet another representation dated 13.07.2018 praying *inter alia* that he be transferred back to any Media Unit in Delhi due to the ill-health of his wife and for grant of earned leave. The said representation was considered by the competent authority and a reply was sent to the petitioner on 24.07.2018, calling upon him to report for duty at Chennai forthwith.

5. On receiving the memorandum dated 27.07.2018, the petitioner filed the present O.A. No.2865/2018 praying *inter alia* that he be transferred back to Delhi, by setting aside the impugned transfer order dated 04.07.2018 and 24.07.2018. Vide order dated 31.07.2018, the Tribunal has dismissed the captioned O.A. by holding that the ground of ill-health of the family member or the education of children would be available to all employees and being the senior most officer, the petitioner was expected to lead the entire team in the organisation. Taking note of the resistance on the part of the petitioner to any transfer order, the Tribunal held that there were sufficient facilities for treatment at Chennai if his wife was indisposed. Aggrieved by the said order, the petitioner has filed the present petition.

6. At the outset, we have requested learned counsel for the petitioner to clarify the tenure of service of the petitioner with the respondents No.2 and 3. Learned counsel states that the petitioner had joined service in the year 1987. In other words, he has served the respondents for over 30 years. We have next asked learned counsel to clarify the number of times he has been posted out of Delhi during his entire period of service. Learned counsel concedes that except for a couple of months that he spent in Vijaywada, the petitioner has remained posted in Delhi throughout his tenure.

7. That itself is sufficient ground for us to dismiss the present petition. Once the petitioner does not deny that he had joined on a transferable post, there is no question of his resisting any transfer order that comes his way. Transfer is an exigency of service and it is for the employer to decide how best to utilize the services of the staff. In any case, the health ground of the petitioner's wife has been sufficiently answered by the Tribunal that has rightly observed that there are sufficient medical facilities available in Chennai if the petitioner wants her treatment to continue there. We do not find any infirmity in the impugned order that warrants interference.

8. Accordingly, the present petition is dismissed as being meritless alongwith the pending application.

HIMA KOHLI, J

REKHA PALLI, J

SEPTEMBER 13, 2018

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