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

+ **W.P.(C) 12965/2018 & CM APPL. 50279-50281/2018**

VISHNU SHANKAR PRASAD

..... Petitioner

Through: Mr. J.P. Sengh, Sr. Adv. with Mr.
V.K. Jain, Shashi Pratap Singh, Zubin
Singh, Mrigna Shekhar, Akash
Mishra, Manisha Mehta, Adv.

versus

UNION OF INDIA (THROUGH SECRETARY) & ORS

..... Respondent

Through: Mr. Sanjeev Sabharwal, Sr. Govt
Counsel with Hem Kumar and Pritish
Sabharwal, Adv for R-1
Mr. Hanu Bhaskar and Mr. Abhishek
Kaushik, Adv.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

03.12.2018

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The petitioner has preferred the present writ petition to assail the order dated 12.11.2018 passed by Central Administrative Tribunal, Principal Bench, New Delhi (the Tribunal) in O.A. No.1873/2016. The petitioner had filed the said O.A. to assail his transfer from Delhi to Silchar vide order dated 27.03.2015. While dismissing the O.A., the tribunal has taken note of the fact that the petitioner continued to serve at Delhi for 32 years before

being transferred to Silchar. The tribunal has also taken note of the fact that the petitioner was shown leniency inasmuch, as, he was also given an option to chose his own place of posting outside Delhi. The petitioner did not give any satisfactory reply to the said option and, consequently, his transfer to Silchar was maintained.

Learned counsel for the respondent, who appears on advance notice, points out that after joining his post at Silchar, the petitioner has remained absent unauthorisdelly since 29.07.2016 and he has not been paid any salary since October 2016. Disciplinary proceedings have also been initiated against him for remaining unauthorisedly absent.

The petitioner, who is present in Court in person, disputes these allegations and states that he is on authorised leave.

The petitioner raised a grievance with regard to his posting at Silchar, vide O.A. 1223/2015. In that O.A., an order was passed on 08.02.2016, directing that in case the petitioner makes a representation to the Secretary, Ministry of Road Transport and Highways raising the grounds which has been espoused in the said O.A. within a week, the same should be examined and a detailed reasoned and speaking order be passed. The petitioner, accordingly, made his representation, which was responded to vide order dated 14.03.2016 by the respondent. In the said order, the petitioner was given the following options, namely:-

- (a) The officer joins Silchar and sets up PMU for the Ministry; or
- (b) The officer shows willingness to be posted in any other field postings, as may be decided by the Competent Authority.

Thus, the petitioner was given an unusual option by the respondent to opt for any other location apart from Silchar and he was informed that he would be posted in a field posting.

The petitioner vide communication dated 28.03.2016 did not give a straight forward answer to the said option. In the said communication, he stated:

“23. The applicant in the past during his long unblemished & outstanding career of over 30 years had never expressed unwillingness to offer of posting/place/ post. The offer as now made in para 21 of the letter dated 14.03.2016 does not state that stations at which the field postings of the Ministry at the level of Chief Engineers Exists to enable the applicant to exercise the option. This letter dated 14.03.2016 also fails to state any reference to Ministry’s Letter No.A-22016/04/2016-EII dated 14th March 2016. Therefore, without prejudice to my right to express willingness for field posting in accordance to the offer made vide letter dated 14.03.2016 and without prejudice to seek legal recourse as is warranted on account of not addressing all the issues raised by the applicant as elaborately brought out in the aforesaid paras, it is requested to kindly state the “names of all Stations of Field Postings” at which the Ministry’s field Offices at the level of Chief Engineers Exist so as to enable the Applicant to exercise & express the willingness option as offered vide para No.21 of letter No.C-18011/02/ 2015- E.II (Pt.II) dated 14th March 2016. Till the above is informed & intimated, the Applicant’s preference will be ‘Bhopal’ which will be confirmed after the Ministry display its bonafides, impartiality & non-discrimination towards Applicant. It is expected that to display the above, the Ministry will henceforth release all the dues & financial arrears & provide all the entitlements to Applicant (denied & deprived illegally so far) and give the above details/ names of all the field offices at the level of CEs so as to enable Applicant to exercise & confirm the option of field posting, follow the Transfer policy & directions of DOPT & CVC on

transfer, and Chief Engineers senior/ having more length of service are also posted out without any iota of favouritism”.

In the aforesaid background, the respondents had, and in our view, also rightly observed by the tribunal, no option but to maintain the order of posting at Silchar.

In the light of the aforesaid development, the submission of the petitioner with regard to lack of post or infrastructure at Silchar loses its significance, since the petitioner appears to have been riding a high horse. It appears to us that he is reluctant to move out of Delhi where he has served for 32 years and it appears that he is just trying to find excuses not to move out of Delhi.

In view of the above, we find no merit in this petition. Dismissed.

VIPIN SANGHI, J

A. K. CHAWLA, J

DECEMBER 03, 2018

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