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

+ **Date of Decision: 08.02.2019**

% **W.P.(C.) No. 1338/2019 AND CM APPL. 6084/2019**

MRS. RAJNI MALHOTRA Petitioner
Through: Mr. M.C. Dhingra, Adv.

versus

CHIEF SECRETARY, GOVT. OF NCT OF DELHI
.....Respondents
Through: Mr. Yeeshu Jain and Ms. Jyoti Tyagi,
Advs.

CORAM:
HON'BLE MR. JUSTICE VIPIN SANGHI
HON'BLE MR. JUSTICE A.K.CHAWLA

A.K.CHAWLA, J. (ORAL)

1. The petitioner is aggrieved of the order dated 24.08.2016 in OA No. 2314/2014 and order dated 19.07.2018 in RA No. 232/2014 passed by the Central Administrative Tribunal, Principal Bench in short 'CAT', whereby, the prayers made by the petitioner, in effect, seeking directions to the respondents to transfer the petitioner to Civil Defence Organization and be posted as Sr. Staff Officer, came to be dismissed.

2. Concisely, the relevant facts are that initially, the petitioner was appointed as Instructor Civil Defence and posted with the Women's Wing of Civil Defence in the Directorate of Home Guards and Civil Defence, earning

03 (three) upgradations under the Modified Assured Career Progression (MACP) Scheme. Directorate General of Home Guards and Civil Defence came to be bifurcated in the year 2009 with the issuance of the Gazette Notification dated 05.03.2009. On the bifurcation so given effect to, the petitioner came to be assigned to the Directorate General of Home Guards at her option. It is the case of the petitioner that in the year 2012, she requested for her transfer/posting to Directorate General, Civil Defence against the post of DSO/Company Commander/Sr. Instructor, but, it did not yield any result. This resulted into filing of OA No. 1105/2013 before CAT, which came to be disposed of with a direction to the respondents to consider the representation of the petitioner and pass a speaking order. It resulted into rejection order dated 19.06.2014. Aggrieved thereof, the petitioner preferred OA No.2314/2014 before CAT seeking quashing of the said communication and granting the relief of her transfer to Civil Defence Organization with desired posting. This OA came to be dismissed vide the impugned order dated 24.08.2016. Petitioner sought review thereof, by filing RA No. 323/2016 *inter alia* quoting the instance of one Sh. Rahul Sudan – said to be similarly placed as the petitioner. In other words, in the Review Application she asserted for the reliefs on the ground of parity as well. This Review Application (RA) came to be dismissed vide the impugned order dated 19.07.2018. Aggrieved of the impugned orders, the petitioner has now approached this Court by way of the instant writ petition.

3. Mr. Dhingra, learned counsel for the petitioner submits that, though, the Directorate General of Home Guards and Directorate General of Civil Defence were bifurcated, the process of transfer from Home Guards to Civil

Defence and vice-versa, was never closed, and, that, there were many instances of *inter se* transfer. Also in his submissions, the case of one Sh. Rahul Sudan was akin to the case of the petitioner and in view thereof, denial of the similar consideration to the petitioner, was violative of her fundamental rights enshrined under Article 14 and 16 of the Constitution of India.

4. Having given our thoughtful consideration to the contentions strenuously made on behalf of the petitioner, we do not find any merit therein.

5. At the onset, we observe that the petitioner has already superannuated and thereby, the prayer for transfer from the Directorate General of Home Guards to the Directorate General of Civil Defence, in any event, has become infructuous. Be that as it may, the petitioner on her part equally fails to point out for any policy of *inter-se* transfer or promotion, amongst the two departments/organizations of the Directorate General of Home Guards and that of Directorate General of Civil Defence. It is also not her case that after bifurcation in the year 2009, the two departments/organizations i.e. the Directorate General of Home Guards and the Directorate General of Civil Defence were maintaining a common seniority list. In the absence thereof, the petitioner cannot claim any vested right for the relief(s) asserted to by her. Merely because a post in the promotional grade was lying vacant in the other organization, and she was desirous to occupy it on account of some eligibility factor weighing in her favour, *ipso facto*, cannot be a ground for her transfer and promotion. In the absence of a vested right founded upon a

well laid policy or a decision by the concerned Authority, the relief(s) sought are wholly unfounded.

6. As for the case of Sh. Rahul Sudan, CAT has taken note of the peculiar facts and circumstances under which the Home Department took the decision on the recommendation of the Directorate General of Home Guards in consultation with GNCT of Delhi to transfer him to the Directorate of Civil Defence. In other words, even his case was not a case of transfer simpliciter on account of a vested right in his favour. Contention of violation of fundamental rights as enshrined under Articles 14 and 16 thus, equally fails.

7. For the foregoing reasons, we do not see any merit in the petition.

8. Dismissed.

A.K.CHAWLA, J.

VIPIN SANGHI, J.

FEBRUARY 08, 2019

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