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

+ W.P.(C) 6183/2019 & CM APPL. 26575-26576/2019

ANIL KUMAR RELAN

..... Petitioner

Through: Mr. Mohinder Madan, Ms. Rashmi B. Singh, Ms. Sonia Singhani, Mr. Shobhir Kumar and Mr. Vipul Shukla, Advocates

Versus

AIRPORTS AUTHORITY OF INDIA

..... Respondent

Through: Ms. Anjana Gosain, Ms. Himanshi and Ms. Shalini Nair, Advocates

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

ORDER

% **29.05.2019**

Vide the present petition, the petitioner seeks direction thereby quashing the impugned order No. A.22013/Cargo/2019-E.S.III/165-175 dated 12.04.2019 and 10.05.2019, whereby the petitioner is sought to be transferred out of his home town, despite being in the superannuation zone.

Learned counsel for the petitioner submits that as per the clause 7.1 of the transfer policy, the persons who are within three years of reaching the age of superannuation shall be posted as far as possible in or nearer to their home town, provided a request is received from the concerned official for posting to home town/opted station. The cut off date for determining three year period will be taken as 31st March.

Learned counsel submits that the petitioner is going to retire on 28.02.2022, therefore, his transfer is contrary to the transfer policy.

In addition to above, learned counsel for the petitioner submits that

the petitioner is also a Rheumatic Heart Patient, suffering from coronary artery disease and had also undergone surgery of coronary angioplasty PTCA with Two stents from Sir Ganga Ram Hospital. He is also suffering from Vertigo, palpitation and missing heartbeats and he is under constant medical treatment and guidance for his ailments and is also required to undergo various diagnostic tests periodically, in the super specialty Hospitals/Institutes and he is currently under treatment from Sir Ganga Ram Hospital, New Delhi.

Ms. Anjana Gosain, learned counsel for the respondent who appeared on advance notice submits that though there is a policy, but the officers may be accommodated, if there is no administrative exigency. As per clause 11 of the transfer policy notwithstanding any of the conditions of the Transfer Policy, transfer on operational and administrative reasons shall be effected with the approval of the Chairman based on specific recommendations from Member (HR)/Member concerned.

Learned counsel further submits that recently cargo complexes have been opened under AAI Cargo Logistics & Allied Services Company Ltd. at Pune, Srinagar, Chennai, Port Blair and Bagdogra. Accordingly, recently seven officers have been transferred and 5 officers are posted for the Cargo Complexes mentioned above.

He further submits that out of his total tenure, the petitioner remains only five years and six months out of Delhi. Therefore, the present transfer is in the administrative exigencies and if the transfer of the petitioner who is senior Manager is stayed, then the whole chain of transfers will be disturbed, which will badly effect the work at the stations mentioned above.

It is not in dispute that choice transfer is not a matter of right.

Moreover, as per the transfer record of the petitioner, on 02.08.2013, he was transferred from New Delhi to APD Chennai and remained there only for 17 days, thereafter back to Delhi. Similarly, on 16.05.2014, he was transferred from New Delhi to Chennai and he remained absent for more than three months and within four months he came back from Chennai to Delhi.

On 05.01.2015, he was transferred from Chennai to Amritsar Airport and joined on 15.01.2015 and had taken further 156 days Earned and Commuted Leave. Thus, the petitioner remained in Delhi for the total period of 5 years and 6 months.

As per the policy relied upon by the petitioner, an officer will be remained only three years at one station and thereafter, he will be transferred. But he was allowed to continue at Delhi only.

On perusal of the transfer policy clause 7.1, the person qua three years of reaching the age of superannuation shall be posted as far as possible in or nearer to their home town. However, in the present petition, the transfer of the petitioner is in the administrative exigencies.

Therefore, I don't want to interfere with the transfer order issued by the respondent. Moreover, vide order dated 10.05.2019, he stands relieved from his duties from AAI CHQ [Cargo Deptt/AAICLAS], New Delhi w.e.f. 13.05.2019.

Counsel for the petitioner at this stage submits that two weeks time may be granted to the petitioner to join at Pune. Accordingly, two week time is granted to join at Pune.

Dasti.

SURESH KUMAR KAIT, J

MAY 29, 2019/rhc