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

+ **W.P.(C) 8150/2019**

HC/DVR SHAMSHER SINGH

..... Petitioner

Through: Mr. Randhir Singh Kalkal, Advocate.

versus

UNION OF INDIA AND ORS.

..... Respondents

Through: Mr. R.V. Sinha & Mr. A.S. Singh,
Advocates.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

ORDER

29.07.2019

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C.M. No. 33780/2019

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

W.P.(C) 8150/2019 and C.M. No. 33779/2019

The petitioner has preferred the present writ petition to assail the transfer order dated 12.07.2019 – which the petitioner claims has not been supplied to him, as well as the movement order dated 22.07.2019.

The case of the petitioner is that on 29.03.2019, the petitioner was posted with his parental Battalion, i.e. 93 Battalion, BSF and was ordered to be transferred to SIW, BSF Tigri Camp, New Delhi. On 07.05.2019, in pursuance of the transfer order, his movement order was issued for joining at

SIW, BSF Tigri Camp, New Delhi. He states that he joined at Delhi on 23.05.2019. Consequently, he took rental accommodation since the official accommodation was not available at SIW Camp. He states that on 22.07.2019, suddenly the movement order was issued in his respect with direction to join his parental battalion.

The petitioner has placed on record an incomplete copy of the order dated 29.03.2019. He has also placed on record the movement order dated 22.07.2019, which reads as follows:

“MOVEMENT ORDER

No. 950050225 HC/Dvr Shamsher Sher of 93 Bn BSF will proceed to 93 Bn BSF due to his unsuitability for Driver duty as assessed by the BOO on 03/06/2019 at SIW BSF New Delhi. Period spent by the individual at SIW BSF i.e. from the date of joining to return to his unit is treated as temporary duty.

2. Date and time of : 22 July' 2019 (FN/AN)
departure
3. Authority for move : FHQ BSF (Pers Dte-Estt
Sec) Sig.No. R/3418 dated
12/07/2019.
4. Purpose of move : As mentioned above.
5. On arrival at destination, individual will report at **93 Bn BSF** for further orders.
6. In case of any difficulties enroute, Individual may report to nearest BSF/CRPF/Police/Army HQrs for necessary assistance by producing this movement order as an authority.
7. Individual has been sanctioned 30 days Earned leave on compassionate ground.”

The movement order makes reference to his unsuitability for driver

duty as assessed by the BOO on 03.06.2019 at SIW, BSF, New Delhi. However, there is no disclosure by the petitioner as to in what context, he was found to be unsuitable.

Mr. Sinha, who appears on advance notice, has produced before this Court the initial order dated 29.03.2019 which consists of three pages, where as the petitioner has annexed only the first two pages of the said order. The third page shows that the posting/ attachment in Delhi was purely on temporary basis and subject to suitability assessment by the Head of Establishment within four weeks time from the date of joining failing which the posting/ attachment would be treated as regular and responsibility for lapse, if any, will rest with respective establishment. Mr. Sinha submits that the petitioner has not disclosed that he was found not suitable in the assessment done by the Board of Officers. It is consequent to the said result of the petitioner that his movement order dated 22.07.2019 had been issued. He submits that this was in terms of the policy decision dated 26.08.2009 of the respondents with regard to posting/ attachment in Delhi.

Learned counsel for the petitioner submits that the petitioner was provided with only first two pages of the order dated 29.03.2019. We see no reason as to why the petitioner would be supplied only first two pages and not the last page which specifically requires the assessment by the Board of Officers with regard to the suitability of the personnel concerned. Pertinently, he does not deny the fact that his suitability was assessed. If he was not aware that his suitability would be assessed, he would have raised his grievance as to why his suitability was assessed in the first place. He does not do so. This only shows that his suitability was to be decided in terms of the order dated 29.03.2019. Since the petitioner has not been found

to be suitable to be retained in Delhi and his initial transfer/ posting order itself was subject to the condition being fulfilled, we see no merit in the petitioner's grievance.

Dismissed.

VIPIN SANGHI, J

RAJNISH BHATNAGAR, J

JULY 29, 2019
B.S. Rohella