

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% **Date of Decision: 17th December, 2020**
+ **W.P. (C) 10017/2020**

BRIG. RAVI NAVET**Petitioner**
Through: Mr. Ankur Chhibber, Advocate
versus

UNION OF INDIA & ORS.**Respondents**
Through: Mr. Harish Vaidyanathan Shankar,
CGSC with Ms. Kinjal Shrivastava
and Mr. Varun Kishore, Advocates
for UOI

CORAM:
HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW
HON'BLE MS. JUSTICE ASHA MENON

[VIA VIDEO CONFERENCING]

JUSTICE ASHA MENON

W.P. (C) 10017/2020, CM APPLN. No.31853/2020 (of the petitioner for stay)

1. The petitioner is a Brigadier in the Indian Army and has filed the instant petition challenging the posting orders dated 9th October, 2020 and 27th November, 2020 which, according to him, have been issued in total contravention of the established and stated posting procedures for Brigadiers in the Indian Army. He has sought the following reliefs:

“(a) *Issue a Writ of Certiorari thereby calling for the original records of the case based on which the impugned*

posting orders dated 09.10.2020 and 27.11.2020 have been passed by the Respondents transferring the Petitioner from HQ, CE-Srinagar to HQ, CE-Shillong, Meghalaya i.e. from one Field Area to another Field Area and thereafter Quash the same including the orders dated 09.10.2020 and 27.11.2020 or any other such order passed thereto;

(b) Issue a Writ of Mandamus thereby directing the Respondents to post the Petitioner to a Peace Station preferably in Northern India or Central India in terms of the posting procedures being followed by the Respondent No.3 and the Advisory dated 29.12.2016 issued by the Respondents;

(c) Pass any such orders as the Hon'ble Court may deem fit in the light of above mentioned facts and circumstances of the case."

2. The petitioner states that he has completed more than 29 years of distinguished military service and has served in almost all parts of the country in various Units and Establishments. His last posting was at the Headquarters as Chief Engineer, Project Beacon under the Border Roads Organisation (BRO) which he assumed on promotion to the rank of Brigadier on 21st May, 2019. He states that he was fully involved in the development of critical infrastructure in the then State of Jammu and Kashmir under critical Counter Insurgency conditions.

3. The learned counsel for the petitioner, Sh.Ankur Chhibber has submitted that the postings of Brigadiers are governed by a posting procedure annexed to the petition as Annexure P-2, which was to ensure fairness, transparency, uniformity, perspective planning and interaction while issuing posting orders in respect of an officer holding the rank of a

Brigadier. The effort was to coincide the requirement of the officer at the personal level and the requirements of the organization. According to Sh.Chhibber, the respondents have given a go-by to this procedure laid down by them.

4. Sh.Chhibber also relies on an Advisory dated 29th December, 2016 specifying the utilization of the Posting Planning Self Analysis (PPSA) to consider the choice of the officers. The MS Branch has instituted this facility for carrying out self-analysis by the officers while putting up a request for their next posting which facility is available through the MS Web. According to the learned counsel, when the MS Branch was preparing posting orders, this automatically opens out as a drop-box and it was clear that the posting orders impugned in this petition had been issued without looking at the PPSA and without realizing that the time for the same had not yet come as far as the petitioner was concerned. According to the learned counsel, PPSA was to be filled in after 18 months of the tenure at the last posting, which would have been completed in the case of the petitioner only in November, 2020, whereas the posting orders have been issued on 9th October, 2020.

5. The further grievance aired by the petitioner is that the posting procedure entailed a personal interview before orders of transfer were issued, but no such opportunity had been granted to the petitioner. Moreover, whereas all other officers have been posted from a 'Field to Peace Station' or 'Peace to Field Station', the petitioner's case alone was of posting from 'Field Station to Field Station'. The petitioner has been posted from Srinagar to Shillong and he has sought the quashing of this posting order. The learned counsel has also submitted that the petitioner

had submitted three representations; first, on 16th October, 2020, the second, on 13th November, 2020 and to which there were no responses given, whereas the third and final representation made to the Chief of Army Staff on 27th November, 2020 resulted in the movement order of the same date directing the petitioner to report for duty at Shillong on 18th December, 2020. The learned counsel submitted that the petitioner was being posted in place of another officer and vide the order dated 16th October, 2020, had been given time till 25th January, 2021 to report for duty. The incumbent had also left Shillong on 1st December, 2020. Therefore, there was no reason for preponement of the date of joining.

6. The learned counsel for the respondents, Sh. Harish Vaidyanathan Shankar, on the other hand, pointed out that there was no such policy of posting and though accommodation was given to officers, there was no right to seek any particular posting. The learned counsel also forwarded to us through email, the list of postings of the petitioner and contended that for nine years continuously, the petitioner had been posted from 'Peace Station to Peace Station' and that when the petitioner has benefited from such posting, there were no equities in his favour to object to a 'Field to Field Posting'. The learned counsel also contended that Shillong was a 'Peace Posting' which, of course, was opposed by the learned counsel for the petitioner, who pointed out that 'field allowance' was being paid to personnel who were posted at Shillong as they were entitled to get special allowances.

7. After having heard both sides, in order to mitigate at least one grievance of the petitioner, an opportunity was given to him of personal interaction vide our order dated 8th December, 2020, when we directed

the respondents to grant an audience to the petitioner to enable him to explain to them his objection to the posting and to enable the respondents in turn to explain to the petitioner the reasons for his posting from Srinagar to Shillong. On 14th December, 2020, it was informed to us that post the personal audience, no relief could be granted to the petitioner who was explained that in the circumstances, he was the most suited to go to Shillong for specific duties.

8. Undisputedly, the postings of Brigadiers are governed by a posting procedure laid down by the respondents and which is annexed as Annexure P-2 to this petition, the relevant portion whereof is as under: -

“POSTING PROCEDURE: BRIGS

1. Generally, all postings are carried out with the mandate for fairness and organisational justice and posting Plg. is a deliberate involving assessment of large number of parameters. Main focus of posting of Brigs is to provide requisite exposure to senior leadership of the Army while ensuring org effectiveness. Officers are also interacted with to understand their requirements in order to achieve a congruence between personal and organisation interest. However, all postings are implemented as per laid down QR of appointments.

Posting Plg. Basic Consideration

2. The posting Plg. process is based on pillars of Fairness, Transparency, Uniformity, Perspective Plg. and Interaction. While Plg. posting of Brigs, efforts are made

to obtain choice stations of officers before issuance of posting, in order to achieve better satisfaction without compromising organization requirements which remain paramount..... ”

9. It is apparent that in an effort to balance the needs of the officers with organizational needs, a procedure has been put in place. But, as the learned counsel for the respondents rightly pointed out, there is no right vested in any officer to claim specific posting. No doubt also, the PPSA provides that an officer could opt for a “Field to Field” posting. But that again does not imply that consent is a pre-requisite for such a posting. Even the procedure extracted above, allows personal choice for posting so long as it does not compromise organizational requirements. It is for an organization to determine where and how to make use of its employees and their specialized talents. While it may be true that the petitioner, being transferred from ‘Field Posting’ to ‘Field Posting’, would be deprived of the company of his family, the needs of the organization will need to prevail.

10. We do not find any *mala fides* attached to the posting orders as the organization, on the petitioner’s own showing, values him. They have acknowledged his good work. They have given him several postings from a ‘Peace Station’ to another ‘Peace Station’. He ought not to complain now when his services are required at another ‘Field Station’, though he has been at Srinagar for the past 18 months. In the absence of any *mala fides* disclosed, we find no reason whatsoever to interfere with the posting orders. We are unable to grant any relief to the petitioner, save for

requesting the respondents to consider a 'Peace Posting' for the petitioner the next time round.

11. The petition is accordingly dismissed.

ASHA MENON, J.

RAJIV SAHAI ENDLAW, J.

DECEMBER 17, 2020

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