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

+ **W.P.(C) 1065/2020**

KUMAR GAURAV

..... Petitioner

Through: Mr. Sudarshan Rajan & Mr. Hitain
Bajaj, Advs.

Versus

UNION OF INDIA AND ANR.

..... Respondents

Through: Mr. Jayant Bhatt, Mr. Umang
Verma, Ms. Apoorva Jain, Advs.
for UOI with Mr. Pankaj Kumar
(G.P.)

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

% **29.01.2020**

CM APPL. No. 3514/2020 (exemption)

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

W.P.(C) 1065/2020 & CM APPL. No. 3515/2020 (stay)

The present petition is directed against order dated 17.01.2020 passed by the Central Administrative Tribunal, Principal Bench, New Delhi ('Tribunal') in O.A. No. 171/2020 which reads as under :

" *Admit.*

Notice.

Learned counsel Sh. Gyanendra Singh, takes notice on behalf of respondent no. 1. Issue notice to respondent no. 2 returnable within four weeks.

The posting in foreign countries, if any, of the second respondent, shall be subject to orders that may be passed by

this Tribunal.

Post on 14.02.2020. Order dasti."

2. Learned counsel for the petitioner submits that in declining to stay the foreign posting, the Tribunal has failed to appreciate that after a detailed procedure for selection for foreign posting was gone through, at the last stage when the Minister's approval is required, the selection was scrapped. It is submitted that the entire procedure for foreign posting was followed in compliance with the Revised Guidelines For Postings in Overseas India Tourism Offices dated 09.10.2018 ; and a list was prepared comprising three persons for overseas posting :

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<i>Sl. No.</i>	<i>Name of the Assistant Director</i>	<i>Marks Secured</i>
<i>1.</i>	<i>Ms. Monika Jamwal</i>	<i>87.6</i>
<i>2.</i>	<i>Shri Kumar Gaurav</i>	<i>79.5</i>
<i>3.</i>	<i>Ms. Monisha Satoeya</i>	<i>75.6</i>

"

3. This list was based on marks secured by ten selected Assistant Directors ; and two persons were kept in the waiting list, being one Mr. Rakesh Kumar who secured 72.5 marks and Mr. Kumar E. Vaste who secured 69.5 marks.

4. However, for unexplained reasons, while the file was awaiting approval of the Minister, the entire process was scrapped ; some new process was initiated, without the petitioner knowing about it ; and it turns

out that Mr. R.K. Mishra, whose name was not in the first list nor in the waiting list, has now been nominated for foreign posting to New York, for which the petitioner had been selected. Counsel submits that the nomination so made is in complete breach of guidelines for foreign posting as aforesaid ; and therefore the foreign posting in question is liable to be quashed.

5. He submits that the petitioner has a strong case on merits and if interim protection is not granted, the O.A. may be rendered infructuous.

6. Issue notice.

7. Learned counsel for respondent No. 1 accepts notice.

8. We have heard learned counsel for the petitioner.

9. Although we find that the Tribunal has granted limited protection to the petitioner, inasmuch as it has directed that the foreign posting of respondent No.2 shall be subject to orders that may be passed by the Tribunal, a stay of the posting has not been granted and the matter has been posted for 14.02.2020. We also find that the Tribunal's order is devoid of any reasons as to why the prayer sought has been declined, even if at the interim stage, especially when it appears that the name of respondent No. 2 was not in any of the lists of selected officers prepared on the basis of the guidelines.

10. While we do not wish to express any opinion on the merits of the matter, we deem it appropriate to request the Tribunal to hear the interim application on 14.02.2020 ; and we direct that the matter be shown high-

up on the cause list, so that it can be taken-up for hearing.

11. The original file shall also be produced by the respondents before the Tribunal to facilitate the hearing.

12. Since learned counsel for respondent No. 1 has entered appearance, no further notice would be necessary to respondent No. 1. Mr. Rajan will send notice only to respondent No. 2 by all modes, including *dasti* and e-mail.

13. Copy of this order be given *dasti* under signatures of the Court Master.

G.S.SISTANI, J.

ANUP JAIRAM BHAMBHANI, J.

JANUARY 29, 2020/uj