

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

% **Date of decision: 12th June, 2020.**

+ **W.P.(C) 3469/2020 & CM No.12291/2020 (for interim relief)**

SATISH KUMAR

..... Petitioner

Through: Mr. Debashis Mukherjee, Mr. Srijib Chakraborty, Mr. Pankaj Aggarwal and Mr. Parma Nand, Advs.

Versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr. Vikrant Goyal, Adv.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

HON'BLE MS. JUSTICE ASHA MENON

[VIA VIDEO CONFERENCING]

RAJIV SAHAI ENDLAW, J.

1. Yesterday, when this petition came up first before us, the following order was passed:

“3. The petitioner, a Commandant in the respondents BSF and presently posted at Siliguri, impugns the order dated 26th May 2020 transferring the petitioner vide SHQ (Pers Sec) Signal No.R3213 to SHQ G-Noida (THQ-Durg).

4. It is the case of the petitioner that the petitioner was earlier ordered to be transferred from Siliguri to Kolkata but could not join at Kolkata owing to the prevalent pandemic and by way of punishment, for not joining at Kolkata, has now been posted to Chhattisgarh.

5. *However it is the own case of the petitioner that there was an order restraining the petitioner to move out of Siliguri and thus it cannot be said that the cancellation of the transfer order to Kolkata and the transfer order to Chhattisgarh is punitive. Counsel for the petitioner himself has fairly stated that unless a case of transfer being punitive is made out, the transfer order is not interferable.*

6. *Though we have heard counsel for the petitioner as well as counsel for the respondents BSF appearing on advance notice, but the counsel for the petitioner now states that the petitioner, simultaneously with filing this petition, has again represented and the authorities have asked him to furnish four options where the petitioner would like to be transferred, considering the fact that the petitioner is due to superannuate in the year 2023, and the petitioner has been assured that he will be transferred to one of the four options/choices furnished by him.*

7. *Counsel for the respondents to obtain instructions by tomorrow.*

8. *List on 12th June, 2020.*

9. *The authorities concerned of the respondents are directed to ensure that instructions are received by counsel for the respondents.*

10. *A copy of this order be immediately forwarded electronically to counsel for the respondents to enable him to forward the same to the concerned authorities for compliance.”*

2. The counsel for the respondents today informs us, that the petitioner has given three options within the State of West Bengal itself and one option of Gauhati and neither of which is a suitable option to post the petitioner at. He has also informed that the petitioner, for the last over ten years, has been posted in the State of West Bengal only and there are other reasons for the respondents not wanting the petitioner to be now posted in West Bengal or

near about. As far as the medical reason of the parents of the petitioner is concerned, it is stated that Raipur, where there is an All India Institute of Medical Sciences (AIIMS), is very close to Durg, Chhattisgarh where the petitioner has now been ordered to be posted and thus the medical ailments of the parents of the petitioner have not been found to be a ground, for not posting the petitioner at Durg.

3. The counsel for the petitioner states that no order has been passed on the representation of the petitioner qua medical grounds of his parents and this petition may be disposed of, directing the respondents to consider the representation of the petitioner and pass an order thereon within two or three days and the petitioner be not relieved from his present posting at Siliguri, till then. It is contended that the petitioner has a right to have his representation against the transfer decided, by a speaking order.

4. It is also contended that as per the impugned transfer order, though the petitioner is to be relieved by 15th June, 2020 but time for joining at the place of fresh posting has been granted till 30th June, 2020. It is argued that thus no prejudice will be served, if a speaking order were to be passed on the representation of the petitioner within two or three days. Certain other reasons against the posting at Durg, have also been urged.

5. Having considered the respective submissions, we are of the view that neither any case for interference with transfer of the petitioner nor a case of directing the respondents to pass a speaking order is made out. Once the petitioner had preferred a petition to this Court and on which petition the respondents were directed to take instructions and have taken instructions with respect to the medical grounds urged of the parents of the petitioner,

disposing of the petition by directing the respondents to pass a speaking order would only result in multiplicity of litigations and forum hunting.

6. Resultantly, the petition is dismissed.

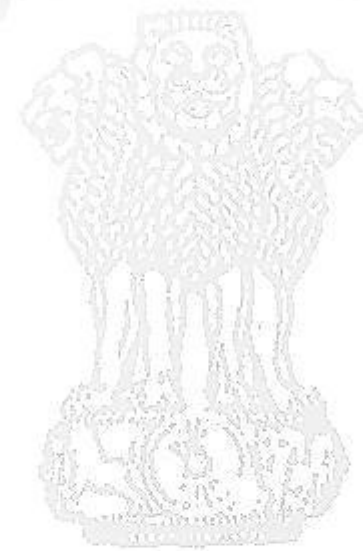
No costs.

RAJIV SAHAI ENDLAW, J.

ASHA MENON, J.

JUNE 12, 2020

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