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

% **Date of Decision: 15th July, 2020**

+ **W.P. (C) 3625/2020, C.M. Appl. No.12917/2020 (for stay)**

RACHPAL SINGH

.....Petitioner

Through: Mr. Girijesh Pandey, Advocate

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr. Dev P. Bhardwaj, CGSC with
Mr. Jatin Puniyani, G.P. for UOI.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

HON'BLE MS. JUSTICE ASHA MENON

[VIA VIDEO CONFERENCING]

JUSTICE RAJIV SAHAI ENDLAW

W.P. (C) 3625/2020, C.M. Appl. No.12917/2020 (for stay)

1. The petitioner, employed as a Constable (GD) with the respondents Central Industrial Security Force (CISF), has filed this petition impugning the order dated 10th August, 2019 of his transfer from Ghaziabad to Delhi as well as the order dated 26th August, 2019, asking the petitioner to vacate the government accommodation allotted to him at Ghaziabad.

2. The representation of the petitioner against the transfer was rejected on 19th December, 2019 and the petitioner, on 3rd April,

2020 was informed that he would be liable for penal rent of the quarter allotted to him at Ghaziabad. Vide order dated 29th April, 2020, another representation of the petitioner for transfer within Ghaziabad, was also rejected.

3. The petition came up first before us on 19th June, 2020, when the counsel for the respondents appeared on advance notice. Though the petitioner in the petition had sought the relief of transfer back to Ghaziabad, but the counsel for the petitioner during the hearing stated that the petitioner had no objection to be posted at Delhi and the only grievance was that consequent to the transfer from Ghaziabad to Delhi, the petitioner had been asked to vacate the Government accommodation allotted to him at Ghaziabad. It was further argued by the counsel for the petitioner that the son of the petitioner is a patient of diabetes and was being treated at Yasoda Hospital, close to the Government accommodation allotted to the petitioner at Ghaziabad and it was in the interest of the son of the petitioner to continue residing in the Government accommodation at Ghaziabad. It was contended that the petitioner will suffer extreme hardship if asked to vacate the Government accommodation at Ghaziabad.

4. Though the aforesaid arguments were addressed, but the petitioner along with the petition had not filed any documents to show the medical status of the son of the petitioner or of the son of the petitioner being treated at the hospital close to the Government accommodation at Ghaziabad or of the son of the petitioner

studying in Class-V in a school close to the Government accommodation at Ghaziabad, which was also one of the arguments urged. On request of counsel for the petitioner, opportunity was given to the counsel for the petitioner to file additional documents and the hearing adjourned to today.

5. While so adjourning the hearing, the counsel for the respondents, on 19th June, 2020, was also asked to obtain instructions on the following :

(i) Whether the petitioner, on vacating government accommodation at Ghaziabad, would be able to immediately get government accommodation at Delhi;

(ii) If the government accommodation at Delhi is immediately not available, what is the House Rent Allowance (HRA) entitlement of the petitioner;

(iii) Since with effect from coming into force of the National Capital Region Planning Board Act, 1985, the National Capital Region comprises of Delhi, Ghaziabad, Gurugram, Noida, etc.; once it is so, why can the pool of accommodation for para-military forces, as CISF is, be not for the National Capital Region instead of separate for various parts of National Capital Region; a large number of residents of one area of the National Capital Region have their place of work in the other, and when the same is possible for private citizens, why it is not possible for the

para-military forces. It appeared, that the para-military forces will not even have to approach the Board or Committee created by said Act and even if the said Board is required to be approached, why has the said Board been not approached till now.

The presence before this Court today of a responsible officer of the respondent, in a position to answer all the aforesaid queries, was also directed.

6. The petitioner has filed additional documents in support of the arguments urged on the last date of hearing.

7. In compliance of the order dated 19th June, 2020, Mr. Sanjeev Kumar, Deputy Commandant, CISF is also present along with the counsel for the respondents and with respect to our queries, has informed

(i) That the petitioner has now been posted at Indraprastha Power Generation Corporation Limited (IPGCL), Delhi and is required to reside in the barracks provided by IPGCL. The family of the petitioner is free to reside wherever.

(ii) Though the organizations like IPGCL also provide family accommodation to certain personnel of CISF posted at their premises, but at present family accommodation is not available at the premises of IPGCL.

(iii) That the petitioner, on being posted at IPGCL Delhi, has option of either applying for the family accommodation at Delhi or to avail of the House Rent Allowance (HRA).

(iv) At present no family accommodation at Delhi is immediately available and the petitioner will have to be put on the waiting-list at Sl. No.26 and would be entitled to draw HRA in lieu thereof, of about Rs.7676/- per month.

(v) That the accommodation at Ghaziabad is for the reserve battalion of CISF which is posted there and at present, there are 126 personnel in the waiting-list for the Ghaziabad accommodation.

(vi) That the petitioner as per his SHAPE category, at present, has not been given arm and ammunition and owing to the prevalent Covid-19 circumstances, is also not required to compulsorily reside at IPGCL barracks and is permitted to reside with his family and is residing with his family in the Government accommodation at Ghaziabad.

(vii) The need for having a common pool of accommodation for the National Capital Region does not arise. As per Rule 61 of CISF Rules, 2001, CISF personnel are to be provided accommodation at the premises of the assigned organization, as IPGCL.

(viii) That the petitioner was allotted the Government

accommodation presently in his occupation at Ghaziabad, as per his seniority and not on medical or health grounds.

8. *Per contra*, the counsel for the petitioner has contended that the Commandant of the reserve battalion and of the battalion at Delhi is the same and the petitioner consented to the transfer to Delhi for the said reason only.

9. Counsel for the petitioner has also impressed on us his difficulties and the consequences which the petitioner will have to face unless his family is allowed to continue residing in Ghaziabad accommodation. The counsel for the petitioner also states that the petitioner be given time of one year at least to make alternate arrangement for his family.

10. From the aforesaid, it transpires that there is no legal ground on which we can grant the relief sought by the petitioner.

11. The Courts cannot start interfering with the administration of various organizations without fully assessing their working and their needs, requirements, planning and policy of the organization and which is not in the domain of the Court. Once the authorities concerned in the organization have applied their mind and have taken a decision to post the petitioner at Delhi and/or to ask the petitioner to vacate the accommodation in his possession, it is not for the Court to, sympathizing with the petitioner before it, grant the relief and which often, in this country of scarcity of resources, is at the cost of or to the prejudice of others, who are not before this

Court.

12. It is informed that there are more than 126 personnel of CISF who are waiting for the accommodation presently in occupation of the petitioner and which the petitioner now, as per the rules of CISF, has no right to hold. Sympathy to the petitioner is likely to result in prejudice to the others, who in law are entitled to the accommodation presently in occupation of the petitioner.

13. We are thus not able to grant any relief to the petitioner, but once again impress upon the respondents, who have already rejected the representation of the petitioner, to again consider the case of the petitioner and if find the petitioner to be deserving of any latitude or to retain the accommodation presently in his occupation, even if for a short time more, to confer the same on the petitioner.

14. The petition is disposed of.

RAJIV SAHAI ENDLAW, J.

ASHA MENON, J.

JULY 15, 2020

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