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

+ W.P.(C) 3927/2020 & C.M. No. 14050/2020

MS.LOGANAYAGI DIVYA V

..... Petitioner

Through: Mr. Jayant Mohan & Ms. Meenakshi
Chatterjee, Advocates.

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr. Arun Bhardwaj, CGSC with
Mr.Abhishek Sharma, Mr. Nikhil
Bhardwaj and Mr. Piyush Gaur
Advocates for respondent No.1/ UOI.
Mr. Raja Chatterjee and Mr. Piyush
Sachdev, Advocates for respondent
No.2/ State of West Bengal.
Mr. Soumyajit Pani and Mr.Siddharth
Jain Advocates for respondent No.3/
State of Odisha.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

ORDER

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22.07.2020

1. On the last date, we had passed the following order:

“ Mr. Raja Chatterjee, Advocate puts in appearance on behalf of the State of West Bengal. He seeks a short adjournment to take instructions on the ground of Covid-19 Pandemic.

We may notice that the respondent no.1, i.e. Union of India issued the notification permitting change of the petitioner's cadre from West Bengal to Orissa, as early as on 12.09.2017. Respondent No.2/ State of West Bengal was

directed to immediately relieve the petitioner to enable her to join the IPS Cadre of Orissa. The pandemic is only about four months old. There is absolutely no justification for the State of West Bengal in not relieving the petitioner since 12.09.2017. Pertinently, the State of West Bengal has already granted its consent to the said cadre transfer, only whereupon the notification dated 12.09.2017 came to be issued. The petitioner has delivered a child on 12.06.2020. Counsel for the petitioner states that the delivery is pre-mature and the child needs extra and special care.

In these circumstances, we grant the State of West Bengal one week's time to take steps to relieve the petitioner, failing which, the Court would be compelled to issue necessary directions on the next date of hearing. It is made clear that no further adjournment shall be granted.

List on 22.07.2020."

2. Today, Mr. Raja Chatterjee has appeared for respondent No.2/ State of West Bengal and he states that he has no instructions with regard to the petitioner's relieving by the said State, so as to enable her to join her post in the IPS Cadre in the State of Odisha.
3. The petitioner got married to another IPS Officer – who is assigned State of Odisha, as his Cadre. In terms of the policy of the respondents, the petitioner sought change of Cadre from West Bengal to Odisha. The said change was sanctioned after prior approval of both – the State of West Bengal & the State of Odisha, and of the Union of India as well. Consequently, on 12.09.2017, the Union of India issued a notification permitting Cadre transfer of the petitioner from West Bengal to Odisha. Despite that being the position, the State of West Bengal has not relieved the petitioner to be able to join her post in the IPS Cadre in the State of Odisha. Nearly three years have elapsed since then. The petitioner approached the

Central Administrative Tribunal which passed the order in her favour. Despite that, she has not been relieved. Consequently, she has preferred this writ petition.

4. In our view, there can be absolutely no justification for the State of West Bengal not relieving the petitioner to enable her to join the IPS Cadre in the State of Odisha. This shows complete apathy on the part of the State of West Bengal – which cannot be countenanced. We are left with no alternative, but to issue directions to enable the petitioner to join her post in the IPS Cadre in the State of Odisha.

5. Accordingly, we declare that the petitioner stands forthwith relieved from her post in the IPS Cadre of the State of West Bengal. No further orders would be required to be passed by the State of West Bengal in this regard. We direct the State of Odisha to treat this order as a relieving order of the petitioner to enable her to join her post in the IPS Cadre in the State of Odisha.

6. The petition is allowed with Costs of Rs.20,000/- against the State of West Bengal, which shall be paid to the petitioner positively within four weeks from today.

7. The petition stands allowed in the aforesaid terms.

VIPIN SANGHI, J

RAJNISH BHATNAGAR, J

JULY 22, 2020

B.S. Rohella