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IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment Delivered On: 29.07.2020

W.P.(C) 4704/2020

PANKAJ SHARMA

.....Petitioner

versus

UNION OF INDIA & ORS.

..... Respondents

Advocates who appeared in this case:

For the Petitioner : Mr. Davinder N. Grover, Ms. Vijay Lakshami
Grover and Mr. Harsh Gupta, Advocates
For the Respondents : Mr. Jagjit Singh, Advocate

CORAM:

HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

HON'BLE MR. JUSTICE TALWANT SINGH

JUDGMENT

SIDDHARTH MRIDUL, J. (via Video Conferencing)

CM APPL.16927/2020 (Exemption)

Exemption allowed, subject to all just exceptions.

The application is disposed of accordingly.

CM APPL.16928/2020 (Exemption)

The present application under Section 151 of the Code of Civil Procedure, 1908 has been filed on behalf of the applicant/petitioner seeking exemption from filing duly attested affidavits in support of the accompanying writ petition as well as applications.

For the reasons stated in the application and in view of the present prevailing situation, the same is allowed. The applicant/petitioner is allowed to file the duly signed and attested affidavits within a period of one week from the date of resumption of regular functioning of the Court.

With the above direction, the present application is disposed of.

CM APPL.16930/2020 (Exemption)

The present application under Section 151 of the Code of Civil Procedure, 1908 has been filed on behalf of the applicant/petitioner seeking exemption from filing the requisite court fees.

For the reasons stated in the application and in view of the present prevailing situation, the same is allowed. The applicant/petitioner is allowed to file the requisite court fee within a period of 72 hours from the date of resumption of regular functioning of the Court.

With the above direction, the present application is disposed of.

W.P.(C) 4704/2020 & CM APPL.16929/2020 (Stay)

1. The petitioner, was heitherto working as Chief Controller in the Northern Railway, and has been posted in Delhi since 2004.

2. The official respondents vide order dated 29.11.2019 transferred the petitioner to Tughlakabad — which is also located within the city of New Delhi — on administrative grounds.
3. The official respondents continued to issue orders requiring the petitioner to join duty at Tughlakabad, the last such communication being issued on 02.06.2020, requiring him to join immediately.
4. Aggrieved by the orders issued on behalf of the official respondents, the petitioner instituted OA No.818/2020 titled as '*Pankaj Sharma v. Union of India & Ors.*' before the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as 'CAT').
5. The Hon'ble CAT, vide its order dated 14.07.2020, impugned in these proceedings, held as follows:

“4. The applicant is working in the office at Delhi since 2004. The impugned order is issued on administrative grounds. It may be true that the applicant is undergoing treatment for certain ailments. All the same he was discharging the duties at Delhi. Things would have been different altogether had it been a case where the transfer is to a distant place where, the availability of medical facilities is not certain. The transfer, in the instant case, is to Tughlakabad, which is part of Delhi. It cannot be said that the applicant is put to

inconvenience, in any manner. Even while attending the duties at Tughlakabad, he can avail the same medical facilities.

5. So far as the request of the applicant to entrust him the lighter duties is concerned, it is for the respondents to deal with the same in accordance with the existing guidelines and procedure. Keeping the application pending for a long time, may not be proper.
6. We, therefore, dispose of the OA declining to interfere with the order of transfer but directing the respondents to pass orders on the representation of the applicant for entrustment of lighter duties, within a period of two months from the date of receipt of copy of this order. The applicant is granted 15 days time from today to report to duty at Tughlakabad. There shall be no order as to costs.”

6. Issue notice.

7. Mr. Jagjit Singh, learned counsel accepts notice on behalf of the respondents.

8. With the consent of the learned counsel appearing on behalf of the parties, the writ petition itself is taken up for hearing finally and is disposed of with the following order.

9. It is an admitted position that the petitioner's job is a transferrable one, in accordance with law.

10. It is further axiomatic that the petitioner, who is working as Chief Controller in the Northern Railway and has been posted in Delhi

since 2004, has merely been transferred within the city from one location to another on administrative grounds.

11. We are, therefore, of the considered view that the transfer of the petitioner by the railway authorities cannot be faulted in any manner.

12. Therefore, insofar as the Hon'ble CAT, by way of the impugned order dated 14.07.2020, declined to interfere with the order of transfer *qua* the petitioner, we are in complete agreement with the said direction.

13. Therefore, having heard learned counsel appearing on behalf of the parties and in view of the legal and factual position that obtains, we direct the petitioner to report for duty at Tughlakabad on or before 05.08.2020.

14. We however, direct the official respondents/Railways to dispose of, by way of a speaking order, in accordance with law, the representation for entrustment of lighter duties filed by the petitioner, under intimation to him, within four weeks from today.

15. No further directions are called for.

SIDDHARTH MRIDUL
(JUDGE)

TALWANT SINGH
(JUDGE)

JULY 29, 2020
dn/as/rs

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