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

% **Date of Decision: 20th August, 2020**

+ **W.P. (C) 4958/2020 & C.M.Appl.17902/2020 (for *ad-interim* directions)**

LT COL NEERAJ KUMARPetitioner
Through: Mr.Mohan Kumar and Ms.Neetu
Singh, Advocates

versus

UNION OF INDIA & ORS.Respondents
Through: Mr. Chetan Sharma, ASG with Mr.
G.D. Sharma CGSC, Mr. RV
Prabhat, Mr. Amit Gupta, Mr.
Sahaj Garg and Mr. Anish Roy
Advocates

CORAM:
HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW
HON'BLE MS. JUSTICE ASHA MENON

[VIA VIDEO CONFERENCING]

JUSTICE RAJIV SAHAI ENDLAW

W.P. (C) 4958/2020, C.M.Appl.17902/2020 (for *ad-interim* directions)

1. The petitioner, a Lieutenant Colonel in the Indian Army and belonging to the Dental Corps, has filed this petition seeking a mandamus to the respondents to grant extension of

tenure/deferment of posting to the petitioner, to enable the petitioner to look after his ailing wife.

2. We have heard the counsel for the petitioner and the Additional Solicitor General (ASG) appearing for the respondents. The petitioner, since 19th September, 2016, has been posted at Delhi and on request, on 31st May, 2019 on the ground of children's education, was granted extension of stay at Delhi till 31st March, 2020. However when the turn-over posting order was issued on 6th March, 2020, the petitioner again sought deferment and upon the same being refused, on 9th June, 2020 filed O.A.577/2020 before the Armed Forces Tribunal (AFT). The AFT, vide order dated 22nd June, 2020, on the ground of the petitioner's wife's ailment, granted deferment/extension of the posting order, by 30 days. The petitioner again sought deferment and pending consideration thereof, has filed this petition.

3. The counsel for the petitioner has contended, that the wife of the petitioner, in May/June 2020 was detected to be suffering from "*Pleural Effusion*" and is unable to exert herself and unable to do anything in relation to shifting from Delhi to Jalandhar, where the petitioner has now been posted. It is further stated that the children of the petitioner have to take class-X and class-XII Board examinations.

4. We have pointed out to the counsel for the petitioner and the learned ASG also has confirmed, that the city of Jalandhar has

excellent medical facilities, including a large military hospital.

5. Counsel for the petitioner states that he is aware of the same but since the wife of the petitioner is being treated at Delhi, neither can she be left alone at Delhi nor is in a position to shift.

6. The ASG states that such deferments of posting orders, if given, would set a very bad precedent and have a cascading effect.

7. Though our sympathies may be with the petitioner, but we have in our judicial orders been adopting a policy of no interference with transfers, except on legal grounds, being of the view that it is not in the domain of the court to, by showing sympathy to one before the court and oblivious of the ground realities at the place of posting, interfere with the functioning of the Armed Forces and affect others, not before the court and who, by deferment of posting of one before the court, may be prejudicially affected.

8. No legal ground is made out.

9. Dismissed.

10. The counsel for the petitioner, at this stage, states that representation made by him is pending.

11. All that we can say is, that the dismissal of this petition will not come in the way of consideration of the representation of the petitioner, including for extension of time to vacate the residential

accommodation in his occupation at Delhi.

**RAJIV SAHAI ENDLAW
(JUDGE)**

**ASHA MENON
(JUDGE)**

AUGUST 20, 2020
ak/pkb

