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

% **Date of Decision: 11th August, 2020**

+ **W.P. (C) 5182/2020**

CT/GD RAJENDER SINGH **.....Petitioner**

Through: Mr. Anuj Aggarwal and Mr.
Shikhar Sheel, Advocates

versus

UNION OF INDIA & ORS. **.....Respondents**

Through: Mr.Naginder Benipal, Senior Panel
Counsel with Ms.Rupali Kapoor,
GP for respondents No.1 to 3

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

HON'BLE MS. JUSTICE ASHA MENON

[VIA VIDEO CONFERENCING]

JUSTICE RAJIV SAHAI ENDLAW

C.M. Appls.18654/2020 & 18655/2020 (Exemption from filing true typed copies of certain annexures and seeking permission to file copies of original documents which are dim, etc. and from filing duly affirmed affidavits)

1. Allowed, subject to just exceptions and as per the extant rules.
2. The applications are disposed of.

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3. The petitioner, employed since 9th May, 2012 with the respondents Sashastra Seema Bal (SSB), in the category of Ex-

Servicemen, after 22 years of service in the Indian Army, and from 2012 till now having been posted at Delhi, has filed this petition impugning the order dated 10th June, 2020 declining the petitioner's request seeking cancellation of his transfer to Siddharthnagar (UP), as well as the order dated 18th July, 2020 relieving the petitioner from Delhi; mandamus is also sought, to direct the respondents SSB to either retain the petitioner at the present place of posting or to transfer him to a location where sufficient and appropriate medical facilities are available.

4. It is the case of the petitioner, that (i) in 2014, the petitioner was detected to be suffering from "*Non-Critical Coronary Artery Disease (NC-CAD)*" and "*Old Cerebrovascular Accident (CVA)*"; (ii) that three stents have been put in the arteries of the petitioner, in 2014, 2016 and 2018 respectively; (iii) the medical category of the petitioner though has been graded to be SHAPE-3 (Permanent) but the petitioner was found to be fit for continuing in government service beyond 50 years of age; (iv) that the petitioner has been representing to the authorities against the order of transfer dated 21st February, 2020, but representations of the petitioner have been rejected on 10th June, 2020, with a non-speaking order; and, (v) upon the petitioner not joining at the place of posting, a Memorandum dated 29th July, 2020 also has been issued to the petitioner.

5. The counsel for the petitioner, before us, has contended that the petitioner, for his medical reasons, as per the Rules/Office

Memorandums, is required to be posted at a place within 30-40 minutes driving distance from a medical facility and Siddharthnagar, where the petitioner has been posted, is five hours' driving distance from Lucknow. Emphasis is also laid on the impugned order being a non-speaking one and having not dealt with the grounds contained in the representations of the petitioner.

6. The officers of the Forces like SSB, authorized to deal with such representations, are not judges and are not trained in writing orders like pleadings and orders of the court and are not required to give detailed reasons. Once in the order dated 10th June, 2020, it has been recorded that the representations have been considered and no merit had been found therein, in our opinion, the same is sufficient. It cannot be lost sight of that transfer is a exigency of a service as of SSB and the petitioner having already stayed at Delhi for over 8 years, has no right to continue at Delhi and/or to be posted at a place of his liking. The decisions of the representations against transfer have to be viewed in this light and not like a appellate court. No requirement to give reasons in an order dealing with the representation against the transfer order, also is shown.

7. The counsel for the respondents SSB appearing on advance notice, to assuage the fears of the petitioner, also states that his instructions are that Siddharthnagar is a fully developed area, with plenty of medical facilities.

8. *Per contra* the petition is silent as to the medical facilities at

Siddharthnagar. Even otherwise, Forces like the SSB make their own provisions for providing medical assistance to their personnel/officers posted at each place and for this reason also, we are not convinced with the reason being given by the petitioner to avoid transfer out from Delhi, where he has already been posted for the last eight years. In our stint over this Roster, we are finding a large number of personnel posted at Delhi, showing reluctance to be moved out of Delhi and challenging their transfer order before the Court, on some ground or the other; the Forces like the SSB, cannot be expected to keep all their personnel in the Capital City and by the very nature of the duties the Forces are to perform, their personnel are required to be posted at different locations.

9. All that we can observe is, that if the petitioner, after joining at Siddharthnagar, is found to suffer from any medical ailment which cannot be attended to at Siddharthnagar or in the vicinity, on the petitioner making representation, the authorities concerned may consider the same. Else, no merit is found in the petition.

10. Dismissed.

**RAJIV SAHAI ENDLAW
(JUDGE)**

**ASHA MENON
(JUDGE)**

AUGUST 11, 2020
s/pkb