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

+ **W.P.(C) 5900/2020 & CM APPL. 21321/2020 (for *ad interim* directions).**

HAVILDAR L VELMURUGAN

..... Petitioner

Through: Ms. Archana Ramesh, Adv. with Lt.
Col. K. Ramesh (Retd.)

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr. Rishabh Sahu, Adv. with Major
Katoch, Legel Cell

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

HON'BLE MS. JUSTICE ASHA MENON

ORDER

% **02.09.2020**

[VIA VIDEOCONFERENCING]

CM APPL. 21322/2020 (for exemption).

1. Allowed, subject to just exceptions and as per extant rules.
2. The application is disposed of.

W.P.(C) 5900/2020 & CM APPL. 21321/2020 (for *ad interim* directions).

3. The petitioner, a Havildar in the respondents Indian Army and posted at Bangalore, has filed this petition impugning the posting order dated 6th June, 2020, posting the petitioner to Nagrota, Jammu & Kashmir (J&K).
4. It is the case of the petitioner that the wife of the petitioner, for the last 4-5 years, is suffering from Bipolar Affective Disorder and is in need of a psychiatric facility and Nagrota, J&K, which is Field Counter Insurgency area, does not have the requisite facility.

5. The counsel for the respondents Indian Army appearing on advance notice, on instructions states that the Unit of the petitioner for the last one year is at Udampur, J&K and Udampur, J&K has an Army Hospital which has the requisite psychiatric facilities. It is also contended that these are family stations and have all the amenities.

6. The counsel for the petitioner then states that the petitioner will complete 24 years of Colour service in the rank of Havildar, on 31st December, 2020 and it will be then decided whether the petitioner is entitled to extension for two years, till 31st December, 2022 or not and if is not granted such extension, would superannuate; the petitioner be permitted to remain at Bangalore till 31st December, 2020 at least.

7. The matter was passed over, to enable the counsel for the respondents Indian Army to obtain instructions whether the petitioner has been granted extension till 31st December, 2022 or not.

8. On passover, it is informed that the petitioner has already been granted extension till 31st December, 2022. It is also informed that the petitioner was earlier posted to Partapur in Leh Ladakh district but on his representation on the same grounds, the posting order to Partapur in Leh Ladakh district was recalled and the posting order to Udampur, J&K, where all the medical facilities which his wife requires, are available, was issued.

9. It is thus contended that the petitioner is now not entitled to challenge his posting order which is subsequent to favourable consideration of the representation of the petitioner with respect to his earlier posting order. It is also informed that the posting of the petitioner to Bangalore was also on request of the petitioner and the petitioner has already remained posted at

Bangalore for 41 months.

10. The counsel for the petitioner on passover states that she has received instructions that the petitioner has already applied for premature release from Army, on the ground of the ailment of his wife and his application for discharge has already been forwarded and is under consideration. She states that till the decision of the discharge application at least, the petitioner should be permitted to remain at Bangalore.

11. The counsel for the respondents Indian Army, on enquiry states that the orders on the discharge request of the petitioner shall be passed maximum within one month.

12. We dispose of this petition requesting the authorities of the respondents Indian Army to, within one month of today, sympathetically consider the request of the petitioner, either for discharge from respondents Indian Army w.e.f. 31st December, 2020 and being permitted to remain at Bangalore till then or if the petitioner is not discharged, to remain at Bangalore till 31st December, 2022.

13. It is made clear that if both the said requests, post consideration are denied, the petitioner shall comply with the posting order.

14. The petition is disposed of.

RAJIV SAHAI ENDLAW, J

ASHA MENON, J

SEPTEMBER 2, 2020

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