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

+ W.P.(C) 6203/2020 & CM No.22232/2020 (for ad-interim directions)

MAJOR SIDDHESH RANE Petitioner
Through: Ms. Archana Ramesh, Adv.

Versus

UNION OF INDIA & ORS. Respondents
Through: Mr. Avnish Singh, Adv.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

HON'BLE MS. JUSTICE ASHA MENON

ORDER

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18.09.2020

[VIA VIDEO CONFERENCING]

1. On 10th September, 2020, when this petition came up first before this Court, the following order was passed:-

“3. The petitioner, a Major in the respondents Indian Army and presently posted at Siliguri, has filed this petition impugning the order dated 31st August, 2020 posting him to Jammu.

4. It is the case of the petitioner, that (i) the petitioner was married on 27th November, 2014; (ii) the wife of the petitioner also is a Major in the respondents Indian Army; (iii) since marriage for the last six years, the petitioner and his wife have not been posted at the same place and were given a couple posting only six months back, at Siliguri; and, (iv) the petitioner and his wife are both 33 years of age and are childless and their childbearing age is soon running out and if not allowed to reside at the same place, would perhaps remain childless.

5. The counsel for the petitioner states that the petitioner and

his wife have no desire to be posted at any particular place but all they want is that they should be posted together, wherever it may be, so that they can live as husband and wife.

6. The counsel for the respondents Indian Army appearing on advance notice states that the posting order has been issued within six months of posting at Siliguri owing to the emergent situation at the borders and the entire brigade of the petitioner is moving and it is not as if a pick and choose policy has been adopted.

7. The counsel for the petitioner controverts and states that the brigade of the petitioner is at Sikkim but the petitioner is being sent to Jammu.

8. Considering the aforesaid facts, while issuing notice of the petition, which is accepted by the counsel for the respondents Indian Army, we are of the view that a more humane approach is expected in the matter and request the authorities concerned to sympathetically consider the request of the petitioner in this petition, if necessary by making an exception, and unless the request is acceded to, a counter affidavit be filed within one week.

9. List on 18th September, 2020.”

2. The counsel for the respondents states that the authorities in the Indian Army have considered the matter sympathetically and have reconsidered the order posting the petitioner to Jammu and have posted the petitioner at Siliguri only, where his wife is posted; it is also stated that he has emailed the Signal issued in this regard.

3. The Signal emailed discloses the posting to be for 18 months only.

4. The counsel for the respondents states that since the petitioner and his wife have been together at Siliguri already for six months and spousal posting is given for a period of two years only, the posting at Siliguri of the petitioner is for a period of 18 months only.

5. We feel the aforesaid time to be sufficient for the purpose for which the petitioner had sought posting at the same station as his wife.
6. The counsel for the petitioner, while expressing gratitude to the authorities concerned, for considering the request of the petitioner, states that the wife of the petitioner should not be posted out of Siliguri during the said 18 months.
7. Once it is stated that it is a spousal posting, it follows that the question of the spouses being separated for the next 18 months does not arise.
8. With the aforesaid, the petition has served its purpose and is disposed of, wishing all the very best to the petitioner in his endeavour for starting a family.

RAJIV SAHAI ENDLAW, J.

ASHA MENON, J.

SEPTEMBER 18, 2020

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