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\* IN THE HIGH COURT OF DELHI AT NEW DELHI  
% Date of decision: 11<sup>th</sup> September, 2020

+ W.P. (C) 6331/2020, C.M. Appl. No.22461/2020 (of the petitioner for stay of transfer order dated 30.07.2020 and the subsequent office order dated 03.08.2020) & C.M. Appl. No. 22462/2020 (of the petitioner for exemption from filing eligible copies of annexures)

BAIKUNTHA NATH DAS .....Petitioner  
Through: Mr. A.K. Thakur, Mr. Rishi Raj,  
Advocates

versus

CENTRAL RESERVE POLICE FORCE .....Respondent  
Through: Mr. Satya Ranjan Swain, Central  
Govt Senior Panel Counsel.

**CORAM:**

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

**[VIA VIDEO CONFERENCING]**

**RAJIV SAHAI ENDLAW, J.**

**C.M. Appln. No.22462/2020 (Exemption from filing legible copies of annexures)**

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

**W.P. (C) 6331/2020, C.M. Appln. No.22461/2020 (of the petitioner for stay)**

3. The petitioner, an Assistant Sub Inspector (Ministerial) in the respondents Central Reserve Police Force (CRPF) and having

been transferred to Delhi on 27<sup>th</sup> May, 2009, has filed this petition impugning the order dated 30<sup>th</sup> July, 2020 of his transfer from Delhi to Nagpur as well as the order dated 3<sup>rd</sup> August, 2020 relieving him from Delhi.

4. It is the case of the petitioner, (i) that he was enlisted in the respondents CRPF on 22<sup>nd</sup> December, 1989 and as aforesaid was transferred to the Provisioning Directorate, CRPF, New Delhi on 27<sup>th</sup> May, 2009 and has thereafter been transferred to CRPF Hospital, New Delhi on 15<sup>th</sup> February, 2012; (ii) that though an order of transfer of petitioner from CRPF Hospital, Delhi to Composite Hospital, Jammu was passed on 8<sup>th</sup> February, 2017, but on representation of the petitioner and on getting a report that the medical facilities as required by the petitioner were not available at the Composite Hospital, Jammu, the said order of transfer was cancelled; (iii) that the petitioner is a case of renal failure and has been under the OPD treatment of All India Institute of Medical Science (AIIMS), between the years 2010 to 2016 and in the year 2016 underwent a kidney transplant at Indraprastha Apollo Hospital; and, (iv) that the petitioner, on 14<sup>th</sup> August, 2020 represented against the order dated 30<sup>th</sup> July, 2020 of his transfer to Nagpur and was also given a personal hearing on 1<sup>st</sup> September, 2020 but the transfer order has not been revoked.

5. The counsel for the petitioner has drawn our attention to page 60 of the electronic file, being the Discharge Summary of the petitioner post kidney transplant at Indraprastha Apollo Hospital

and to page 138, being the prescription of Dr.Sandeep Guleria of Indraprastha Apollo Hospital to the effect that the petitioner has been advised “complete isolation”. Attention is also invited to page 204 of the electronic file, being the Guidelines for Phased Re-opening (Unlock 3) by the Government of India and Clause 7 whereof deals with protection of vulnerable persons and states that persons with co-morbidities are advised to stay at home, except for essential and health purposes. The counsel for the petitioner contends that considering all the aforesaid, the order of transfer of the petitioner is bad and liable to be quashed.

6. The counsel for the respondents CRPF has appeared on advance notice and under instructions states, (i) that the order of transfer of the petitioner from Delhi has been deferred constantly, at the request of the petitioner and considering the health reasons of the petitioner; (ii) normally a posting is for not more than three years but the petitioner has already been allowed to remain at Delhi for the last over 11 years; (iii) the petitioner has no vested right to remain at one place, as held in ***Shilpi Bose Vs. State of Bihar*** 1991Supp (2) SCC 659 holding that the courts should not interfere with a transfer order which is made in public interest and for administrative reasons unless the transfer orders are made in violation of any mandatory statutory rule or on the ground of *mala fide*; (iv) that the transfer of the petitioner to Nagpur has been effected after obtaining a report of the Chief Medical Officer, CRPF to the effect that all the requisite facilities for the ailment

from which the petitioner suffers, are available at Nagpur; (v) opinion of the Chief Medical Officer, CRPF with respect to movement of the petitioner during the prevalent COVID-19 situation has also been obtained and it has been opined that there is no risk to the petitioner in such movement; (vi) that the respondents CRPF has consistently been humane vis-à-vis the petitioner and the petitioner is taking undue advantage thereof; (vii) that the wife of the petitioner is also a Head Constable in the respondents CRPF and not only the petitioner but his wife also has been accommodated for the last 11 years, by posting her also at Delhi; (viii) now also both the petitioner and his wife have been together transferred to Nagpur; (ix) that the petitioner has been relieved more than one month back but has not joined at Nagpur; and, (x) when the petitioner was in Delhi also, he was not reporting for work in spite of having been reported to be medically fit to join the work.

7. Considering that the petitioner has already been posted at Delhi for the last 11 years and Nagpur is a big city with all medical facilities, we are satisfied that no case for interference with the transfer order is made out.

8. In fact it appears that the insistence of the petitioner to remain at Delhi is for other family reasons and the medical grounds urged are an excuse. We have thus asked the counsel for the petitioner about the family members of the petitioner.

9. The counsel for the petitioner conveniently states that he has no instructions in this regard.

10. The reliance by the counsel for the respondents on *Shilpi Bose* supra is apposite. It was held therein that a Government servant holding a transferable post has no vested right to remain posted at one place or the other and is liable to be transferred from one place to another; transfer order issued by the competent authority do not violate any of his legal rights; even if a transfer order is passed in violation of executive orders or instructions, the courts ordinarily should not interfere with the order; if the courts continue to interfere with day to day transfer orders issued by Government and its subordinate authorities, there will be complete chaos in administration which would not be conducive to public interest.

11. No ground for interference is made out.

12. Dismissed.

**RAJIV SAHAI ENDLAW  
(JUDGE)**

**ASHA MENON  
(JUDGE)**

**SEPTEMBER 11, 2020**  
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