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

Date of decision: 5th November, 2020

+ W.P. (C) 8609/2020
SUKHBIR SINGH

.....Petitioner

Through: Mr. K.K.Sharma, Advocate

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr. Naginder Benipal, Senior
Panel Counsel for GoI

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

HON'BLE MS. JUSTICE ASHA MENON

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[VIA VIDEO CONFERENCING]

RAJIV SAHAI ENDLAW, J.

C.M. Appl. No.27789/2020 (for exemption from filing the true copies and from filing dim copies of annexures)

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

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3. The petitioner, an Inspector (GD) in the respondents Central Reserve Police Force (CRPF), has filed this petition impugning the order dated 2nd March, 2020 of his transfer from 103 Battalion at Delhi to 132 Battalion at Srinagar, Jammu and for mandamus

directing the respondents CRPF to consider the request of the petitioner to be posted near his hometown i.e. at Delhi, Gurugram or Sonipat, on medical grounds.

4. It is the case of the petitioner, (i) that he has been suffering from severe backache for the last 4-5 years, low vision and heart ailments; (ii) that he is due for superannuation on 30th April, 2023 and before 30 months from his superannuation, he is entitled to be posted at or near his hometown; (iii) that his hometown is at Sonipat, Haryana; (iv) that he verbally represented against the transfer but on not getting any reply, has again represented in writing on 12th October, 2020 and to which no response has been received.

5. The counsel for the respondents CRPF appearing on advance notice states that no representation dated 12th October, 2020 has been received. He also refers to our judgment dated 20th August, 2020 in W.P.(C) No. 4958/2020 titled ***Lt Col Neeraj Kumar Vs. Union of India*** and judgment dated 20th October, 2020 in W.P.(C) No. 6408/2020 titled ***Col. Amit Kumar Vs. Union of India*** to contend that interference with transfer can only be on the ground of malafide or on the ground of the same being contrary to the rules and contends that no such plea has been taken.

6. The counsel for the petitioner states that there is a rule permitting posting at/near hometown shortly before superannuation.

7. We have considered the respective contentions and have also carefully perused the medical papers filed by the petitioner along with the petition and are of the view that the medical grounds urged by the petitioner are not such for which any interference with the order of transfer is necessitated. The ailments from which the petitioner, as per the said medical papers is suffering from, are not such which would come in the way of the posting of the petitioner to Jammu.

8. We may notice that in the prevalent times, the need for personnel of the forces like the CRPF is at the borders and not in the capital city of the country. The petitioner has already had the last four years at Delhi, close to his hometown Sonipat and while granting the desire of the petitioner on sympathetic grounds, we cannot be unmindful of others, who also are desirous of being posted in Delhi and are unable to be posted at Delhi for the reasons of those once posted at Delhi never wanting to leave.

9. The counsel for the petitioner has then contended that the petitioner has served several times in Jammu & Kashmir region.

10. That also does not persuade us to interfere with the transfer; rather it shows that the petitioner is experienced with the region and in these difficult times his experience of Jammu and Kashmir region would definitely be to the benefit of the force.

11. The counsel for the petitioner at this stage states that the writ petition be treated as a representation of the petitioner.

12. We direct accordingly but clarifying that if before the petitioner receives the movement order, no response to the representation has been received, the petitioner, if does not comply with the movement order, shall do so at own risk.

13. The petition is dismissed.

**RAJIV SAHAI ENDLAW
(JUDGE)**

**ASHA MENON
(JUDGE)**

**NOVEMBER 05, 2020
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