

MAT 597 of 2021**With
IA No. CAN 1 of 2021****Md. Jasim Khan
Vs
The Union of India & Ors.****(Via Video Conference)****Mr. Subhabrata Datta
Mr. Debashis Sarkar
Mr. Aranya Saha
.....for the Appellant****Mr. Debapriya Gupta
Mr. Arijit Majumdar****.....for Respondents /Union of India**

Party/Parties is/are represented in the order of their name/names as printed above in the cause-title.

The challenge in this appeal is to the order of the Hon'ble Single Bench dated 23rd June, 2021 in the Writ Petition. The Hon'ble Single Bench succinctly recorded the essential facts involved in the Writ Petition.

On behalf of the Writ Petitioner it was recorded that the Petitioner is aggrieved by his transfer to a different Battalion on the ground that the Service Rules do not provide for such transfer in the event the posting of the concerned employee is in the nature of an attachment to a *static post*.

It will be relevant that this point to mention that the Appellant/ the Writ petition is presently serving as an ASI (Ministerial) under the Border Security Force (BSF).

The Hon'ble Single Bench also recorded the stand of the Respondents/ the BSF in the Writ Petition that the order of transfer is actually an order of detachment and has been issued for the purpose of completing a *Record of Enquiry (ROE) qua* the Appellant/the Writ Petitioner. Accordingly, the Appellant has been detached from his present posting to serve in a Battalion other than under his superior officer in respect of whom the *ROE* relates.

Having regard to the above factual and legal matrix, the Hon'ble Single Bench has kept the Writ Petition pending to be ultimately decided on Affidavits. The Hon'ble Single Bench wanted to satisfy itself at the ultimate adjudication as to whether the position of the Rules would operate as a complete bar on such transfer or, the action is not in the nature of a transfer but that of a detachment. In the above view of the matter without causing prejudice to the rights and contention to the parties, the Appellant/the Writ Petitioner was permitted to join in his transferred place of posting.

This Court, after affording the parties a lengthy hearing, is satisfied that the application of mind by the

Hon'ble Single Bench deserves no interference at this stage.

The matter returns to the Hon'ble Single Bench to be decided as directed by the order of 23rd June, 2021 on merits. The Hon'ble Single Bench is requested however to expedite the hearing of the Writ Petition, subject to its convenience.

MAT 597 of 2021 along with **CAN 1 of 2021** stand thus **disposed of**.

In view of the order made above Affidavits are not invited. Allegations made shall be deemed to be denied.

All parties to act on a server copy of this order downloaded from the official website of this Court.

Urgent Xerox certified copy of this order, if applied for, be supplied to the parties, subject to compliance with all requisite formalities.

(Kesang Doma Bhutia, J.)

(Subrata Talukdar, J)