

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

(Via Video Conference)

WPA 11822 of 2021

Jhaman Yadav
Vs.
Union of India & Ors.

Mr. Lalratan Mondal,
Mr. Meghnath Datta
... For the petitioner.

Mr. Partha Ghosh,
Mr. Ajay Choubey
... For Union of India.

Affidavit of service filed in Court today is taken on record.

The petitioner is a constable in Border Security Force, (in short, "BSF"), having identity no.950030993. The petitioner was posted at 27 BN BSF and was serving at Tagorevilla, Kolkata. The petitioner while serving thereat was residing at GPRA, quarter No.718, Type – II, KC Block, Salt Lake City, Kolkata – 700091, with his family. The petitioner has two children who are studying respectively in Class – XII and Class – IX at Kendriya Vidyalaya, Salt Lake City, Kolkata. The petitioner has now been transferred to 78 BN BSF at Malda, vide office order dated 11th March, 2020. The petitioner says that on being transferred to Malda, the petitioner will not be entitled to retain his quarter at Kolkata. The petitioner for the benefit

of his children who are studying in fairly higher classes at the Kendriya Vidyalaya in Kolkata wants to retain the said quarter at Kolkata. This is permissible, according to the petitioner, if the petitioner is posted either in Jammu & Kashmir or at any place in the North-East region.

After hearing the parties and considering the materials on record, I think justice will be subserved if the petitioner's representation dated 25th January, 2021, for transferring him either to Jammu & Kashmir or to any place in the North-East region instead of Malda so that his quarter can be retained, be considered by the Competent Authority and disposed of within a timeframe. I am told by the respondents that the Competent Authority for considering the petitioner's representation is ADG (EC), having his office at 2B, Lordsinha Road, Kolkata. The said officer is, however, not a party to the writ petition.

In the aforesaid facts and circumstances, I direct the ADG (EC), having his office at 2B, Lordsinha Road, Kolkata, to dispose of the petitioner's representation dated 25th January, 2021 appearing at page 64 (Annexure P-5) of the writ petition within a period of twelve weeks from date. The petitioner shall serve a copy of the writ petition along with the instant order within seven days to the ADG (EC), having his office at 2B, Lordsinha Road, Kolkata. The said ADG (EC), shall pass a reasoned order after considering the petitioner's representation by affording the

petitioner an opportunity of hearing, following the prevailing Covid-19 protocol.

Any movement order that may have been issued to give effect to the transfer to 78 BN BSF at Malda, shall abide by the result of the decision that will be passed on the petitioner's representation.

Nothing further remains to be adjudicated in the writ petition and the same is accordingly disposed of without any order as to costs.

Since I have not called for any affidavits, the allegations contained in the writ petition are deemed to have not been admitted by the respondents.

Parties including the said ADG (EC), having his office at 2B Lordsinha Road, Kolkata, shall act on a server copy of this order without insisting upon a certified copy thereof.

(Arindam Mukherjee, J.)