

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**CWP-5704-2021 (O&M)
Date of Decision: 17.03.2021**

Deepak Kumar Sharma

... Petitioner

Versus

Union of India & others

... Respondents

CORAM:- HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. Sanjeev Kumar Aarya, Advocate for the petitioner.

Ms. Anita Balyan, Advocate for Union of India.

...

TEJINDER SINGH DHINDSA, J. (ORAL).

Matter has been taken up through Video Conferencing via Webex facility in the light of the Pandemic Covid-19 situation and as per instructions.

Petitioner is serving in the rank of Subedar Clerk under the Indian Army.

Instant petition has been filed seeking a writ of certiorari for quashing of a movement order dated 03.03.2021 (Annexure P-5) as also the posting order dated 12.10.2019 (Annexure P-1).

Petition had come up for hearing on 10.03.2021 and the following order was passed:

“This case has been taken up through Video Conferencing via Webex facility in the light of Pandemic Covid-19 situation and as per instructions.

Petitioner is serving in the rank of Subedar-Clerk in the Indian Army.

As per pleadings on record a posting order dated 12.10.2019 (Annexure P-1) was issued transferring the petitioner from Garrison Engineer (Utility) Chandi Mandir to Garrison Engineer (Utility) South Western Command, Jaipur. At this stage

respondent No.4 is stated to have forwarded a demi official letter dated 02.12.2019 (Annexure P-2) for deferment of the movement order pertaining to the petitioner.

Instant writ petition has been filed as the petitioner has now been served with a movement order dated 03.03.2021 (Annexure P-5) so as to implement the previous posting order dated 12.10.2019 (Annexure P-1).

Counsel at the very outset submits that the instant writ petition be treated as a mercy petition. It is contended that son of the petitioner is to appear in the class 12th CBSE exams slated to be held in the months of May-June 2021. Mother of the petitioner underwent a major open heart bypass surgery on 12.02.2021 at Max Hospital, SAS Nagar, Mohali. Wife of the petitioner is stated to be suffering from Bipolar Affective Disorder (Mental Illness). Furthermore, petitioners's unmarried sister aged 43 years is stated to be suffering from Turner's Syndrome i.e. a Genetic Abnormality. It is pleaded that it is under such pressing and extreme domestic circumstances that the petitioner be accommodated at Chandi Mandir till June 2021 and thereafter the petitioner would be willing to join at the place of posting at Jaipur.

Notice of motion on such limited aspect returnable for 17.03.2021.

Ms. Anita Balyan, Advocate, has joined proceedings and accepts notice on behalf of respondents No.1 to 6. A complete copy of the petition already stands furnished.

Since the matter does not involve any complicated question of law/fact, there would be no requirement for filing a reply.

Counsel for the respondents is requested to complete oral instructions in the matter and as to whether petitioner can be accommodated for a period of three months at his current place of posting.

List on 17.03.2021”

Ms. Anita Balyan, Advocate representing respondents No.1 and 2

informs the Court that even though the respondent/authorities are ready and

willing to accord a sympathetic consideration to the request of the petitioner but they are hesitant to pass an order in black and white as the same would open the flood gates for similar requests to be made by other service personnel.

Counsel for the petitioner makes a submission that he would confine the scope of the instant petition only as regards deferment of the movement order. He submits that he would give up his challenge to the basic order of posting dated 12.10.2019 (Annexure P-1) transferring the petitioner from Garrison Engineer (Utility), Chandi Mandir to Garrison Engineer (Utility) South Western Command, Jaipur. Undertaking has also been furnished that he would join at the place of posting in Jaipur in the month of June, 2021.

In view of such limited prayer and coupled with the inclination shown on behalf of the respondents to accord a sympathetic consideration of the request as per submission made by counsel representing respondents No.1 to 6 writ petition is disposed of.

Respondents No.3 and 4 are directed to consider the limited request of the petitioner for deferring the movement order for a period of three months in the light of the compelling personal circumstances detailed out in the order dated 10.03.2021 passed by this Court and to thereafter convey a final decision in this regard to the petitioner within a period of one week from today.

Disposed of.

17.03.2021

harjeet

(TEJINDER SINGH DHINDSA)

JUDGE

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|-------------------------------|--------|
| 1. Whether speaking/reasoned? | Yes/No |
| 2. Whether reportable? | Yes/No |