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

+ **W.P. (C) 1923/2020, CM APPL. 6734/2020**

M.A. KHAN

.....Petitioner

Through: **Ms.Saahila Lamba, Advocate.**

Versus

UNION OF INDIA AND ORS.

.....Respondents

Through: **Mr.Rajan Sabharwal with
Mr.Raghav Sabharwal, Advocates.**

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Date of Decision: 16th March, 2021

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MS. JUSTICE ASHA MENON

J U D G M E N T

MANMOHAN, J (Oral):

1. Present writ petition has been filed challenging the Force Order dated 11th February, 2020 whereby petitioner has been transferred from RPF Post ANVT/DLI to Kashmir Valley. Petitioner also seeks directions to the respondents to continue posting of petitioner at RPF Post ANVT/DLI or grant any other soft posting to petitioner commensurate with his medical condition.

2. Learned counsel for the petitioner states that in 2015, petitioner developed weakness and numbness of both upper and lower limbs which was insidious in onset and progressive in nature. She further states that pursuant thereto, a Medical Board was constituted that opined that petitioner is unfit for job of Head Constable/RPF due to his physical

disability but fit in his original medical category Bee-one vision wise and therefore, the Medical Board recommended that petitioner may be given alternative employment on medical grounds in medical category Bee-one and below where running/field activity is not required. The relevant portion of last Medical Board recommendation dated 14th March, 2016 is reproduced hereinbelow:-

“NORTHERN RAILWAY

*No – 54-Med/MB/MAK/DLI/2016
Dt: 14.03.16*

*Division Hospital,
Delhi*

*The Assistant Security Commissioner,
Railway Protection force,
Anand Vihar*

Subject: Medical Board of Sh. Mawassar Ali Khan S/o Sh. Hasmat Khan, working as Hd. Constable under ASC/RPF/ANVR.

Reference: CHD's letter No. 99-Med/MB/MAK/1848 dated 08.03.16.

The recommendations of the Medical Board in favour of the above named employee duly accepted by the CMD/Northern Railway/New Delhi on 03.03.16 are reproduced below:-

Recommendations:- In view of above, the members of the Divisional Medical Committee are of the opinion that Sh. Mawassar Ali Khan S/o Sh. Hasmat Khan, working as Hd. Constable under ASC/RPF/ANVR is unfit for his present job of Hd. Constable/RPF due to physical disability mentioned above. But fit in his original medical category Bee-one vision wise. It is recommended that he may be given an alternative employment on medical grounds in medical category Bee-one & below where running/field activity is not required.

*Sd/-
(Dr. Mool Narayan)
Chief Medical Superintendent
Delhi....”*

3. She points out that the petitioner was working on a supernumerary post and posted as Head Constable, Anand Vihar pending grant of suitable alternative employment to him.

4. She emphasises that instead of granting alternative employment to the petitioner, respondents transferred the petitioner from his supernumerary post of Head Constable Post, Anand Vihar Delhi to hard posting of Kashmir Valley, which is not justifiable.

5. Per contra, Mr.Rajan Sabharwal, learned counsel for the respondents states that as per Rule 90 of RPF Rules, 1987, transfer can be ordered for administrative reasons. He states that in the present case, the transfer was on administrative grounds inasmuch as the petitioner was found involved in malfeasance/questionable activities along with other Head Constable Mahesh Chand & Inspector Kishan Singh Rawat. He points out that these officers were suspended, issued major penalty chargesheet and thereafter the charges were proved against them. He emphasizes that the inquiry report has not been challenged by the petitioner till date.

6. Keeping in view the foresaid as well as the fact that transfer is an exigency of service, this Court rejects the prayer for stay of the transfer order of the petitioner to Kashmir Valley. However, the respondents are directed to give posting to the petitioner in Kashmir in accordance with the last Medical Board recommendation dated 14th March, 2016.

7. With the aforesaid directions, the present writ petition along with pending application stand disposed of.

MANMOHAN, J

ASHA MENON, J

MARCH 16, 2021
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