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

+ **W.P.(C) 3920/2021 & C.M.Nos.11788-11789/2021**

RAVINDER KUMAR Petitioner

Through: Mr. Amitosh Kant Ojha, Mr.
Kushagra Aman, Advocates

versus

UNION OF INDIA & ORS. Respondents

Through: Mr. Ghanshyam Mishra, CGSC, Ms.
Dacchita Shahi, GP, Mr. Akshat
Singh, Advocates

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Date of Decision: 24th 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 posting order dated 3rd November 2020 vide which the petitioner belonging to General Reserve Engineering Force (for short 'GREF') was directed to join 435 RMP/1448 BCC HQ 761 BRTF BRAHMANK, in the State of Arunachal Pradesh. Petitioner also seeks direction to respondent No. 2 to 4 to transfer the petitioner to the petitioner's hometown i.e. Delhi or any other nearby area due to the serious medical condition of his infant daughter and in terms of Border Roads Organisation Posting Policy: GREF Officers (Posting Guidelines) for employees/officers applying for posting on compassionate

grounds, or for medical reasons. In the alternate, the petitioner seeks direction to respondent No. 2 to 4 to consider the wider posting option as asked by the petitioner in terms of respondent's letter dated 9th December 2020 by accommodating the petitioner to any of the wider choice posting place, near to the petitioner's hometown.

2. Learned counsel for the petitioner states that the petitioner is in the GREF. He states that the petitioner's wife is working in the ESIC Hospital in Rohini, Delhi and is undergoing mandatory two year probation. He states that the petitioner was blessed with a daughter on 4th December 2019 but unfortunately the daughter was born with a congenital defect of "Club Foot" and needs special care.

3. He states that the petitioner's wife also started having backache and par spinal muscle spasm due to overload of work pressure.

4. He further states that in view of the ill health of the petitioner's family the petitioner submitted a request vide letter dated 28th September 2020 for posting at Delhi HQ in terms of guidelines of Government of India, Ministry of Personnel, Public Grievances and Pension (Department of Personnel and Training) OM F.No.28034/9/2009-Estt (A) dated 30th September, 2019 and posting policy: GREF Officers, which provides for posting of husband and wife at the same station. He states that the petitioner also cited the serious medical condition of his asthmatic mother in the said request beside the work pressure on his wife.

5. He states that though the petitioner submitted five options of wide choice of posting in response to the respondents' letter, which were Delhi, Chandigarh, Rishikesh, Pathankot and Hanumangarh, yet vide letter dated 22nd February, 2021, the Chief Record Officer, GREF rejected the request of

the petitioner summarily without even considering the wider choice options for posting provided by the petitioner.

6. Having heard learned counsel for the petitioner and having perused the paper book, this Court finds that the petitioner's request for posting has been declined by the respondents vide letter dated 22nd February 2021. The relevant portion of the said letter reads as under:-

"5. GREF Record is finding it difficult to accommodate even personnel having chronic ailments like cancer, kidney transplanted/dialysis patients, heart patients etc in MAA located in Delhi, Pune, Chandigarh etc where superspeciality medical facilities are available. Apart from this, choices of 2nd/3rd HAA down personnel, lady employees, LMC pers, CG, physically handicapped GREF employees besides personnel having disabled children are also required to be adjusted in Most Attractive/Soft Areas.

6. As per service certificate dt 28 Sep 2020 issued from the office of the Medical Supdl ESIC Hospital, New Delhi, "spouse of the indl is working as Staff Nurse in ESIC Hospital under Min of Labour and Employment, Govt of India. She is an employee of Autonomous Body and her service are transferable any where in India".

7. In this connection, you may refer DOPT guidelines with heading "where one spouse belongs to a Central Service and the other spouse belongs to a PSU" issued vide Para-4 (vi) of Office Memorandum No.28034/9/2009-Estt (A) dated 30 Sep 2009 wherein it has been clearly stipulated that "the spouse employed under the PSU may apply to the competent authority and the said authority may post the officer to the station or if there is no post under the PSU in that station, to the station nearest to the station where the other spouse is posted".

8. In instant case, ignoring the DOPT guidelines, the indl is insisting for diversion of his posting to HQ DGBR which is Most Attractive Area having super speciality medical speciality where the indl can not be adjusted due to the reason mentioned at Para-5 above.

9. In view of the above and administrative constraints of the organization, individual may please be asked to move to the unit location as per Posting Order issued by GREF Records vide Posting Order No.0831/FA5 dated 03 Nov 2020.

(emphasis supplied)

7. From the respondents' letter dated 22nd February 2021, it is apparent that the respondents are today finding it difficult to post the persons suffering from serious ailments like cancer, kidney transplant, hard ailments etc. at places where super-speciality hospitals are situated.

8. This Court is of the view that all three diseases, namely, muscle spasm, asthma and 'Club Foot' mentioned in the writ petition are treatable and none of them is a serious medical condition.

9. Consequently, this Court is of the view that the petitioner is not entitled to the relief prayed for. Accordingly, the present writ petition along with pending applications is dismissed.

MANMOHAN, J

ASHA MENON, J

MARCH 24, 2021

Pkb/KA