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

+ W.P.(C) 5985/2021

RAM PRAKASH

..... Petitioner

Through: Mr. Nikhil Bhardwaj, Advocate.

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr. Naginder Benipal, Senior Panel
Counsel with Ms. Harithi Kambri,
Advocate for UOI.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

HON'BLE MR. JUSTICE AMIT BANSAL

ORDER

% **07.07.2021**

[VIA VIDEO CONFERENCING]

C.Ms. No. 18921/2021 & 18922/2021 (both for exemption)

1. Allowed, subject to just exceptions and as per extant rules.
2. The applications are disposed of.

W.P.(C) 5985/2021 & C.M. No. 18920/2021 (for stay)

3. The petitioner, a Constable (GD) in the respondents Central Industrial Security Force (CISF) and posted in Delhi/National Capital Region, since the year 2011, wants to perpetuate his posting at Delhi and has filed this petition impugning the order dated 17th April, 2021 of his transfer to Tapovan in Uttarakhand and the order dated 23rd April, 2021 vide which the personnel earmarked for posting were directed to be relieved by 10th June, 2021.
4. The challenge is premised on three grounds. Firstly, on the ground

that the petitioner, as far back as in the year 2015, had been diagnosed to be suffering from Paranoid Schizophrenia. Secondly, on the ground that the wife of the petitioner, in the year 2016 was diagnosed to be suffering from Seizure disorder. Lastly, on the ground of the mother of the petitioner, stated to be residing with the petitioner, also being unwell and having recently been hospitalized therefor.

5. We have in our tenure on this Roster noticed that once a personnel of any force is posted at Delhi, he/she does not want to leave Delhi and wants to perpetuate his/her stay at Delhi. We have in several judgments held that exercise of discretion on sympathetic/compassionate grounds by the Court in favour of such persons is always to the prejudice of others who are not before the Court. Unlimited number of personnel of any force cannot be accommodated at Delhi. Accommodating one is always at the cost of another, who though may have been wanting to be posted at Delhi and whose circumstances also justify the same, is unable to be so posted owing to those already posted, by invoking medical/sympathetic grounds refusing to move out of Delhi. Reference in this regard may be made to the decisions of this Court in ***Shyam Sunder Tiwari Vs. Union of India*** MANU/DE/1417/2020 (DB) [Special Leave Petition (Civil) No. 12022-12023/2020 preferred whereagainst was dismissed on 18th November, 2020], ***Kiran Pooja Vs. Union of India*** MANU/DE/1715/2020 (DB), the decision dated 15th July, 2020 in W.P.(C) 3625/2020 titled ***Rachpal Singh Vs. Union of India & Ors.*** [Special Leave Petition (Civil) No. 8923/2020 whereagainst was dismissed on 14th August, 2020] and the decision dated 19th April, 2021 in W.P.(C) 4788/2021 titled ***Meena Matai Vs. Union of India & Ors.***

6. The counsel for the petitioner, after full hearing, states that he

withdraws this petition but the respondents CISF may be directed to treat this petition as a representation against his transfer out of Delhi on compassionate grounds; it is also stated that if the representation is decided against the petitioner, the petitioner will not again approach the Court, impugning the transfer, whether to Tapovan in Uttarakhand or to any other place.

7. The counsel for the respondents CISF appearing on advance notice states that the petitioner, though had made a representation and was asked to submit documents, but failed to do so.

8. The counsel for the petitioner states that all the documents have now been filed along with the petition.

9. The petition is dismissed. However the respondents CISF may consider the documents filed with the petition and if find a case for intervening with the transfer of the petitioner, would be entitled to do so notwithstanding the dismissal of this petition.

10. It is however made clear that this order shall not be construed as any stay on operation of the impugned transfer/relieving orders and if the representation is not decided or decided against the petitioner, the petitioner shall not be entitled to approach the Court, as voluntarily undertaken by the petitioner through counsel to avoid dismissal of the petition on merits.

11. The petition is disposed of.

RAJIV SAHAI ENDLAW, J

AMIT BANSAL, J

JULY 7, 2021/A