

\$~36

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

+ W.P.(C) 6206/2021

LAXMAN SINGH RAWAT

..... Petitioner

Through: Mr. Vivek Gupta, Advocate.

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr. Nawal Kishore Jha, SPC with Mr.
Akshat Singh, GP.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

HON'BLE MR. JUSTICE AMIT BANSAL

ORDER

% **07.07.2021**

[VIA VIDEO CONFERENCING]

C.M. No. 19661/2021 (for exemption)

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

W.P.(C) 6206/2021 & C.M. No. 19660/2021 (for interim directions)

3. This is yet another case, of a personnel of the Defence Forces, once posted at Delhi, adopting legal means to perpetuate his stay at Delhi and refusing to take up another posting.
4. The petitioner is an Inspector (Motor Transport) in the respondents Indo-Tibetan Border Police (ITBP). He has been posted at Delhi since 20th January, 2015, i.e., now for nearly 6 ½ years. Yet, when he has been transferred to Lucknow, Uttar Pradesh, he opposes the same citing his medical condition and the factum of his daughter studying in Class X.
5. As per the averments of the petitioner, the petitioner, on 13th August, 2015 underwent a kidney transplant and is under follow up thereof at Max Hospital and cites the same as one of the reasons for wanting to continue at Delhi.

6. Lucknow is not only a State capital but even otherwise has as good medical facilities as at Delhi. Rather, when we asked the counsel for the petitioner, whether not there is a Max Hospital at Lucknow also, the counsel for the petitioner states that it has not been verified. The same shows, how medical grounds have been urged, without even verifying facts and without there being any basis therefor.
7. The petitioner now, after his transplant, has been in Delhi for more than 6 years and we see no reason to interfere with the transfer order, which is an exigency of service, on medical grounds.
8. As far as the ground urged by the petitioner, of the education of his daughter at Delhi is concerned, as per the education curriculum, after Class X, there is, in any case, a re-admission in Class XI and we thus do not see any reason why the petitioner, if desires his daughter to continue residing with him, cannot admit his daughter to a school at Lucknow, to commence her Class XI education.
9. Yet another ground urged, is of the impending retirement of the petitioner in December, 2022.
10. We have enquired the hometown of the petitioner.
11. The counsel for the petitioner states that the petitioner belongs to Uttarakhand.
12. The petitioner, by his posting at Lucknow, is going closer to his hometown or to his erstwhile State and thus no interference on this ground either is called for.
13. The counsel for the petitioner has drawn our attention to Clause 7 titled “Terminal Posting” of the Standing Order No. 02/2020 dated 15th October, 2020 issued by the Directorate General, ITBP on the subject of “General Guidelines for Posting/Transfer of ITBP Personnel”.

14. However, the said Clause 7 also does not lay down any hard and fast rule and is subject to operational demands and administrative feasibility. The petitioner thereunder is entitled to give a choice of 5 Units and the petitioner does not even claim to have exercised his right therein.

15. We have in *Shyam Sunder Tiwari Vs. Union of India* MANU/DE/1417/2020 (DB) [SLP(C) No. 12022-12023/2020 preferred whereagainst was dismissed on 18th November, 2020], judgment dated 15th July, 2020 in W.P. (C) No. 3625/2020 titled *Rachpal Singh Vs. Union of India* [SLP(C) No. 8923/2020 preferred whereagainst was dismissed on 14th August, 2020], *Kiran Pooja Vs. Union of India* MANU/DE/1715/2020 and judgment dated 19th April, 2021 in W.P. (C) No. 4788/2021 titled *Meena Matai Vs. Union of India*, noticed that interference by the Court on sympathetic grounds urged by one personnel in such cases is always at the cost and to the prejudice of another personnel who is wanting to be posted in Delhi and has to be necessarily denied the said posting owing to the personnel already posted at Delhi adopting all means to avoid being posted out of Delhi.

16. Thus, this Court cannot be sympathetic to the petitioner without the others who may also be deserving of the same sympathy, being before it.

17. No ground for interference is made out.

Dismissed.

RAJIV SAHAI ENDLAW, J

AMIT BANSAL, J

JULY 7, 2021

at