

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

% **Date of decision: 11th August , 2021**

+ **W.P.(C) 8194/2021**

RAVI KUMAR RAI & ORS. Petitioners

Through: Mr. Nikhil Palli, Advocate.

versus

UNION OF INDIA & ORS. Respondents

Through: Mr. Abhay Prakash Sahay, CGSC
with Mrs. Mannu Singh, Mr. Kunal
Dhawan, Mr. Vivek Singh and Mr.
Rishin Salim, Advocates with
Inspector Sanjay Kumar (CISF)..

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

HON'BLE MR. JUSTICE AMIT BANSAL

[VIA VIDEO CONFERENCING]

RAJIV SAHAI ENDLAW, J.

C.M. No. 25442/2021 (for exemption)

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

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3. The 9 Constables (General Duty (GD)) of the respondents Central Industrial Security Force (CISF) posted at Raipur Airport, have filed this petition impugning the order dated 10th March, 2021 on the representation of the petitioners and seeking mandamus, (a) directing the respondents CISF to grant Risk and Hardship Allowance to the petitioners along with all consequential benefits; and, (b) to include the CISF unit at Raipur Airport, Chhattisgarh, in the list of units, to personnel posted wherein, Risk and Hardship Allowance is payable.

4. The petitioner had earlier filed W.P. (C) 10608/2020, claiming the same relief and which writ petition was disposed of vide order dated 7th January, 2021, directing the respondents CISF to, by a speaking order, dispose of the representation earlier made by the petitioners for the same relief. The respondents CISF, in pursuance thereto, have passed the order dated 10th March, 2021, rejecting the representation of the petitioners, reasoning (i) that the representation had been examined in depth at CISF Headquarters, under ambit of relevant rules; (ii) that the circular dated 7th October, 2014 of the Ministry of Civil Aviation, Government of India, relied upon by the petitioners only defined the consolidated list of normal, sensitive and hypersensitive Airports and had no relation with regard to grant of Risk and Hardship Allowance; (iii) that while accepting the recommendations of the 7th Central Pay Commission qua payment of Risk and Hardship Allowance, the Government had directed that the field areas of Central Armed Police Force (CAPF) be examined and classified by the Ministry of Home Affairs; (iv) that the Ministry of Home Affairs, vide OM dated 22nd February, 2019 had constituted a Committee for classification of field areas for grant of Risk and Hardship Allowance to CAPFs; (v) that based on the recommendations of the Committee, the existing classification of field areas had been reviewed in respect of Jammu and Kashmir and Left Wing Extremism (LWE) affected districts, where troops were deployed for Anti-Naxal Operations and sanction was conveyed for areas classification as per Annexure-1 to Annexure-11 vide OM dated 22nd February, 2019; and, (vi) that as per the said classification, the personnel posted at CISF unit at Raipur Airport were not entitled to Risk and Hardship Allowance.

5. We have drawn the attention of the counsel for the petitioners to the

jurisprudence contained in (i) *State of Karnataka Vs. Praveen Bhai Thogadia* (2004) 4 SCC 684, that the Courts should not interfere with matters relating to law and order which is primarily the domain of the concerned administrative authority who are best equipped to assess and handle the situation; (ii) *Suhaib Ilyasi Vs. Union of India* MANU/DE/1153/2002, that the security agencies are best equipped to evaluate the need for providing security to an individual who has been receiving threats; (iii) *Ashwini Kumar Chopra Vs. Union of India* AIR 2011 Del 154 (DB), that the executive is in the best know of when and what sort of security cover be granted to a particular person; (iv) *Shiv S. Sharma Vs. Union of India* MANU/DE/1024/2010; (v) *Bycell Telecommunications India Pvt. Ltd. Vs. Union of India* 185 (2011) DLT 494 (DB); (vi) *Parveen Kumar Beniwal Vs. Govt. of NCT of Delhi* MANU/DE/1304/2015; (vii) *Dalbir Malik Vs. GNCTD* 183 (2011) DLT 574; (viii) *Voluptas Developer Pvt. Ltd. Vs. Union of India* MANU/DE/3782/2016; and, (ix) Judgment dated 5th August, 2020 in W.P.(C) No.4181/2020 titled *Lt. Col. P.K. Choudhary Vs. Union of India*, all holding that once the agencies of the government having expertise have reached a conclusion that it is risky, it is not for the Court to in the exercise of its power of judicial review sit in appeal over such decision, whether there is perception of threat, has to be considered by the authorities vested with the powers to assess the same and this scope of judicial review is limited, whether there is perception of danger, there can be no judicial review of the same. It has been enquired, that following the said jurisprudence, how can the Court interfere with the decision of the respondents, duly authorised in this regard, assessing, personnel of which units are entitled to Risk and Hardship Allowance.

6. The counsel for the petitioners has fairly stated that he is not controverting the aforesaid jurisprudence but has drawn attention to the reasons contained in the representation of the petitioners and as also set out in the impugned order dated 10th March, 2021.

7. It is not as if the respondents have not dealt with the reasons set out in the representation of the petitioners. The respondents have reasoned, that the Armed Forces deployed at the Border adjoining the district of Raipur, Chattisgarh i.e. Ghamatri, Mahasmud, Gariaband, were getting Risk and Hardship Allowance but those deployed at the Raipur Airport though was classified as hyper sensitive Airport, was not found to be similarly placed.

8. It thus, cannot be said that in pursuance to the order dated 7th January, 2021 in the earlier writ petition preferred by the petitioners, the respondents have not passed a speaking order or have not applied their mind thereto. Even otherwise, there is a perceptible difference between “hyper sensitive” on the one hand and “hard and risky” on the other hand. Sensitivity may be owing to several factors which may not constitute hard and risky, so as to make the personnel posted at a sensitive position eligible for a Risk and Hardship Allowance.

9. No ground for entertaining the petition is made out, Dismissed.

RAJIV SAHAI ENDLAW, J

AMIT BANSAL, J

AUGUST 11, 2021/hd..