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

+ W.P. (C) 6927/2020 & CM APPL. 23756/2020

KARMVEER

.....Petitioner

Through: Mr. Nitin Kumar Chahar, Advocate  
with Mr. Mukul Katyal, Advocate.

Versus

UNION OF INDIA & ORS.

.....Respondents

Through: Ms. Amrita Prakash, CGSC for  
respondents No.1 and 2.  
Mr. V.S.R. Krishna, Advocate with  
Mr. V. Shashank Kumar, Advocate  
for respondent No.3.

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Date of Decision: 16<sup>th</sup> February, 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. Petitioner, who is a Sub-Inspector with ITBP, has filed the present writ petition impugning the order dated 16<sup>th</sup> September, 2020 transferring him from Rewari in Haryana to Reckong Peo, Himachal Pradesh.
2. Learned counsel for petitioner states that the son of the petitioner is visually impaired and has been certified by the respondent No.3-All India Institute of Medical Sciences as suffering from 100% disability. He states that the petitioner needs to be posted in and around Delhi as he is

the only family member who can take care of the medical needs of his son as his wife is suffering from Tuberculosis.

3. In the counter affidavit, it has been stated by the respondents No.1 and 2 that the petitioner has been posted in soft area for more than eleven years on account of treatment of his son. It is further stated that as per the transfer policy of the Force, the normal tenure of posting in a soft area of a personnel is a fixed period of three years and the petitioner was due for transfer to Extreme Hard Area or Hard Area in 2014.

4. It is also stated in the counter affidavit that the grievance of the petitioner has been considered by the Department from time to time, but due to cadre review of the force, sanctioned posts of SI(CM) of Units have been reduced from three to two, due to which the petitioner became surplus in the 28<sup>th</sup> Bn. and accordingly he has been transferred to 17<sup>th</sup> Bn., Reckong Peo as per transfer cycle and policy guidelines.

5. It is further stated that presently 6469 personnel of this Force are in low medical category and priority is being given to those who are ill and unfit for duties in hard area and extreme hard areas. The relevant portion of the counter affidavit is reproduced hereinbelow:-

*“.... it is not feasible to retain the Petitioner in Soft Area i.e. Delhi/NCR. It is further submitted that being a member of the uniformed Force, Petitioner is liable to be deployed at any place in public interest and depending upon various operational needs and administrative exigencies. It is also submitted that the grievances of every Force member are also required to be looked on equally. The Petitioner has already been given adequate opportunity for 11 years continuously beyond his normal tenure of 03 years in Delhi/NCR.”*

6. Having heard learned counsel for parties and having perused the papers, this Court is of the view that the petitioner has been given soft postings for a relatively long time namely eleven years. It is not possible for the ITBP which operates primarily in high altitude areas close to Indo-China border to post an officer indefinitely in and around Delhi.

7. At times, Courts have to take an 'agonising decision'. Keeping in view the fact that presently 6469 personnel of ITBP are in low medical category and priority has been given to those who are ill and unfit, this Court is of the view that sympathy to the petitioner cannot be at the cost of other personnel of the respondent ITBP Force. Consequently, the petitioner is not entitled to any relief at this stage. Accordingly, the present petition and pending application stand disposed of.

**MANMOHAN, J**

**ASHA MENON, J**

**FEBRUARY 16, 2021**

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