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

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Date of decision: March 29, 2022

+ LPA 226/2022

AMIT SRIVASTAVA

..... Appellant

Through Mr. Jawahar Raja, Ms. Meghna De,
Mr. Archit Krishna and Ms. Varsha
Sharma, Advs.

versus

INDIAN OIL CORPORATION LTD & ORS. Respondents

Through Mr. Rajiv Shukla and Mr. Sanjay
Kumar, Advs. with Mr. Shubham
Jain, Sr. Manager for respondents

CORAM:
HON'BLE MR. JUSTICE SURESH KUMAR KAIT
HON'BLE MR. JUSTICE SUDHIR KUMAR JAIN

JUDGMENT (oral)

CAV. 65/2022

1. Respondents/ caveators have entered appearance through Counsel.
2. Caveat is discharged.

LPA 226/2022 & CM APPL. 14681/2022



3. The present Letters Patent Appeal has been preferred under Clause 10 seeking setting aside/quashing of Judgment and Order dated 08.03.2022 passed in W.P. (C) No. 3896 of 2022; quashing of transfer order dated 02.03.2022 in respect of the appellant at Sr. No. 23 at page no. 11 under the head of Marketing Division being arbitrary, malafide and in violation of Office Memorandum dated 08.10.2018. In addition, direction is also sought to the respondents to exempt the appellant from the routine exercise of transfer/rotational transfer in the interest and well-being of the specially abled child in terms of the Office Memorandum of the Government of India dated 08.10.2018.

4. According to appellant, he was working at Air Force Station Hindon, Ghaziabad, U.P. and now he is transferred to R & D Centre Faridabad, Haryana. The main ground raised in the present appeal is that appellant's elder son, namely, Mr. Shreyas Srivastava, aged 21 years, is suffering from Intellectual Disability 50 % (Autistic Spectral Disorder) since his birth.

5. Learned counsel for appellant submits that during posting of appellant at Air Force Station Agra, U.P., his son was 9 years old and he started showing signs of abnormality in terms of comprehension and stubbornness. For treatment of his son, appellant requested the respondents to post him to



Air Force Station Hindon, Ghaziabad as his son was being treated at 11 Air Force Hospital, Ghaziabad under the supervision of senior doctors and presently, he is showing signs of improvement and has been recommended for treatment under strict medical supervision for the next 3-4 years. It is further submitted that appellant had made representation to the respondents in October, 2020 and October, 2021 for retention of his posting at the current posting place i.e. Hindon, Ghaziabad, however, the said representations have not been decided till date. Learned counsel next submits that on 02.03.2022 respondents have transferred the appellant from Air Force Station Hindon to R&D Centre Faridabad in violation of O.M. dated 08.10.2018 whereunder posting of government employees who have specially abled dependents shall be exempted from routine/rotational transfers. Learned counsel for appellant has submitted that when appellant was posted at Hindon Airport base, Ghaziabad, U.P. it was easy for him to take his child to the hospital for his regular treatment.

6. Aggrieved against the impugned transfer order, appellant had preferred a petition being W.P. (C) No. 3896 of 2022 before this Court, which stood dismissed vide order dated 08.03.2022.

7. We have perused the impugned order passed by learned Single Judge.



It is not in dispute that from Hindon Airport base, Ghaziabad, U.P., the appellant has been transferred to R & D Centre Faridabad, which is nearest station. It is also not disputed that the distance of both the places of posting i.e. Hindon Airport base, Ghaziabad, U.P as well as R & D Centre Faridabad is equal from appellant's residence. It is also not disputed that if appellant and his family members approach the Air Force Hospital at Hindon, Ghaziabad, U.P., for treatment of the child, the authorities will not object to give treatment. Accordingly, we find no illegality or perversity in the impugned order passed by learned Single Judge. However, we hereby make it clear that Air Force Hospital at Hindon, Ghaziabad, U.P. shall allow the appellant, his family members and his specially abled child, if they approach for treatment. It is further made clear that if the specially abled child, namely, Shreyas Srivastava, is escorted by any person other than appellant or his family members, even then the child of the appellant shall be allowed to have treatment from the said hospital.

8. The employer of the appellant shall provide all access and complete all the formalities without any delay which are required by appellant, his family members, specially abled child of the appellant and his attendant to get the access to Air Force Hospital Hindon, Ghaziabad, U.P..



9. With aforesaid directions, the present appeal is disposed of.
10. Pending application also stands disposed of.

(SURESH KUMAR KAIT)
JUDGE

(SUDHIR KUMAR JAIN)
JUDGE

MARCH 29, 2022
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