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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% ***Date of decision: July 19, 2022***+ **W.P.(C) 6412/2022 & CM APPL. 30288/2022 (for directions)****AMIT NEHRA** Petitioner

Through: Petitioner in person

versus

UNION OF INDIA & ANR. Respondents

Through: Mr. Divjit Singh Vohra, SPC and Mr. Rishav Dubey, Advocate with Mr. Hemendra Singh, Dy Commandant, (LAW) BSF

CORAM:
HON'BLE MR. JUSTICE SURESH KUMAR KAIT
HON'BLE MR. JUSTICE SAURABH BANERJEE**JUDGMENT** (oral)

1. By way of the CM APPL. 30288/2022, applicant -petitioner seeks to direct the respondents to send back the petitioner to his unit 160 Bn BSF.
2. The petitioner appearing in person submits that he was first attached to 182 Bn BSF in November 2020 and then was de-attached on disciplinary ground from 182 Bn to 29 Bn BSF vide Signal No. R/3224 dated 28.03.2022 wherein it was clearly mentioned that his attachment to 29 Bn BSF is for a period of two months only and that no further extension will be granted and that same was rendered futile *ab-initio* as all the witnesses against the petitioner belonged to 93 Bn of BSF which had already moved to Gujarat



much before, i.e. around July, 2021 itself.

3. He submits that the pending disciplinary action against the petitioner can be completed anywhere and keeping him attached in Manipur will subject him to unnecessary financial constraint as he is not getting allowances, neither at his posting i.e., 160 Bn nor at his attachment location in Manipur.

4. He submits that as per the initial order of his attachment the disciplinary proceedings was to be completed within one month but as the same has not been complied the proceedings have not yet concluded.

5. He has further drawn the attention of this Court to the minutes of the video conferencing of the Director General, BSF held on 02.02.2021 where it is stated as under:-

“To finalize all pending inquiries / Security Force Court Trials within one month as pendency of disciplinary cases for such a long period adversely affects the discipline of the force besides causing unnecessary harassments to the victim as well as accused. It is further desired that all persons attaché with various BNS / HQRS on disciplinary ground be relieved immediately to their respective BNS / HQRS and further no person will be attached with concerned HQR / UNITS on disciplinary ground, necessity arise, witnesses posted out / moved out with respective BNS may be examined / recorded through video conferencing.”

6. He submits that after the lapse of above period of two months, the petitioner vide letter dated 07.06.2022 requested the Commandant 29 Bn, BSF for issuance of movement order for his Unit i.e., 160 Bn BSF (which is presently deployed in Punjab). However when the same was not issued then the petitioner made another representation to the Director General of BSF on



13.06.2022, vide which he had submitted that he has been kept attached at Koirengei, Manipur from past one and a half years or so and that he is having no family life at all there but the same was also neither considered nor replied to.

7. He submits that in addition to the above, he lost his father recently on 29.06.2022 and that his family is extremely traumatized and is in deep sorrow and grief, and is in dire need of presence and moral support of the petitioner. However the same is not possible unless petitioner is sent back to his unit i.e., 160 Bn BSF wherein he has a Family Quarter and where he can keep his family with him.

8. On 12.07.2022, when the present petition was listed before us, the learned counsel for respondents accepted notice and sought time to seek instructions and assist the court on the next date of hearing. Pursuant to the said order, today learned counsel for the respondents, after seeking instructions, handed over a fresh attachment order dated 13.07.2022, issued by the respondents wherein the extension of the petitioner from 160 Bn with 29 Bn, BSF dated 27.11.2020 has been extended for 3 months, upto 28.07.2022.

9. The petitioner submits that the fresh attachment order dated 13.07.2022 has been wrongly issued as it is in violation of the earlier direction dated 02.02.2021 where the Director General, BSF has specifically stated that directions be implemented to the letter and in true spirit and the respondents have not de-attached the petitioner from 29 Bn BSF to 160 Bn BSF.

10. As such the fresh attachment order issued by the concerned respondents on 13.07.2022 is non-est and against the earlier order of the



Director General, BSF dated 02.02.2021. Accordingly, we direct the respondents to attach the petitioner with his present unit i.e., 160 Bn BSF and proceedings if any be concluded from the said Bn in accordance with law.

11. In view of the above observations of this Court, nothing remains in the present petition, the same is accordingly disposed of.

12. The date already fixed i.e., 14.12.2022 stands cancelled.

(SURESH KUMAR KAIT)
JUDGE

(SAURABH BANERJEE)
JUDGE

JULY 19, 2022/rr

