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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 13th June, 2022

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W.P.(C) 9497/2022

K. RAKESH SHANKAR DAYAL

..... Petitioner

Through: Mr. V. Sridhar Reddy, Advocate

versus

THE UNION OF INDIA & ORS.

..... Respondents

Through: Mr. Vineet Dhanda, Central
Government Standing Counsel with Mr. Sarvan
Kumar, Advocate**CORAM:****HON'BLE MS. JUSTICE JYOTI SINGH****HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA****JUDGMENT****JYOTI SINGH, J. (ORAL)****CM APPL. 28354/2022 (Exemption)**

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

W.P.(C) 9497/2022 & C.M. APPL. 28353/2022 (Stay)

3. Present writ petition has been filed assailing the order dated 25.05.2022, passed by the Central Administrative Tribunal, Principal Bench, New Delhi, in O.A. No.1301/2022.
4. The learned Tribunal *vide* the impugned order has declined to grant interim relief staying the operation of the transfer order dated 25.03.2022, on the ground that Petitioner stood relieved on the same day and cancellation of the transfer order as an interim relief would amount to granting a final relief in the Original Application.



5. The transfer order dated 25.03.2022, impugned before the learned Tribunal was challenged by the Petitioner much after the same had taken effect relieving the Petitioner from the current place of posting. Since the transfer order had taken effect, the learned Tribunal rightly held that the adjudication would now be with respect to the legality or otherwise of the transfer order and the relief of cancellation of the transfer order could not be granted as an interim relief.

6. We find no infirmity in order of the learned Tribunal. The main relief sought in the Original Application filed before the learned Tribunal is for quashing and cancellation of the impugned transfer order and as per settled law, the said relief cannot be granted by way of an interim relief as that would amount to allowing the final relief in the Original Application.

7. At this stage, learned counsel appearing on behalf of the Petitioner submits that Petitioner has undergone a surgery and has health related issues, on account of which he is not in a position to join his new place of posting, i.e., Secretariat, Port Blair and requests some time for joining.

8. Having heard learned counsel for the Petitioner and learned Central Government Standing Counsel for the Respondents, we are inclined to accede to this request of the Petitioner and accordingly, Petitioner is granted a period of 6 weeks from today to join his new place of posting as aforementioned.

9. Learned counsel appearing on behalf of the Petitioner undertakes that Petitioner shall join the new place of posting on or before the expiry of 6 weeks period granted by this Court.

10. Learned counsel also submits that Petitioner's salary from the date of the impugned transfer order till date has not been paid. It is not for this



Court to enter into the dispute related to salary of the Petitioner, as that is not the subject matter of the present petition. We are, however, sanguine that the Respondents will take a compassionate and liberal view with respect to payment of the arrears of salary to the Petitioner.

11. At request of the learned counsel for the Petitioner, we grant liberty to the Petitioner to file an application for early hearing of O.A. No.1301/2022 which is next listed on 17.08.2022 before the learned Tribunal.

12. Writ petition is disposed of in the aforesaid terms.

13. Pending application also stands disposed of.

JYOTI SINGH, J
(VACATION JUDGE)

ANOOP KUMAR MENDIRATTA, J
(VACATION JUDGE)

JUNE 13, 2022/rk