



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

Judgment Reserved on: 08.01.2024
% *Judgment Pronounced on: 16.01.2024*

+ **W.P.(C) 11277/2022**

CT/GD RAJENDER SINGH

..... Petitioner

Through: Mr. Sumit Teterwal and Mr.
Rajkumar Maurya, Advocates

Versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr. Raj Kumar Yadav SPC with
Mr. Vedansh Anand, Advocate
with SI Shrabanta Sarkar, SSB

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MR. JUSTICE SAURABH BANERJEE

J U D G M E N T

SAURABH BANERJEE, J.

CM APPL. 1115/2024

For the reasons stated in the application, the same is allowed and the short affidavit filed along with the application is taken on record.

The application stands disposed of.

CM APPL. 55987/2023

1. The applicant/ petitioner, serving as a Constable in Sashastra Seema Bal [SSB] filed a writ petition bearing number W.P.(C) 5182/2020 titled “*CT/GD Rajender Singh vs Union of India*”



challenging his transfer from New Delhi to Siddharthnagar, Uttar Pradesh before this Court. The same was disposed of vide order dated 11.08.2020 and the petitioner was to make a representation for consideration before the concerned authorities and if the petitioner was found to suffer from medical ailments which could not be attended at Siddharthnagar, then the same would be taken into consideration whilst disposing representation of the petitioner.

2. Thereafter, the petitioner filed the present writ petition seeking quashing of the order dated 20.05.2022 whereby he was transferred to 4th Battalion, Lucknow, Uttar Pradesh from 43rd Battalion, Siddharthnagar as also the subsequent order dated 08.07.2022 rejecting his representation dated 24.05.2022. On the first day itself i.e. 29.07.2022, this Court disposed of the present writ petition with a direction to the respondents to facilitate the petitioner to get the treatment at Lucknow or consider the case of the petitioner to transfer him, where all medical facilities required for the treatment of the petitioner are available.

3. Based thereon, the petitioner made a representation but the same was rejected by the respondents vide order dated 09.08.2023.

4. The above led to filing of the present application under Section 151 of the Code of Civil Procedure, 1908 by the petitioner, once again seeking his transfer to any other place close to the Base Hospital, Delhi Cantonment, New Delhi.

5. The learned counsel for the petitioner reiterating the facts narrated above submitted that the petitioner has been routinely referred to New Delhi and the rejection order dated 09.08.2023 is in violation of the O.M. bearing number F.No.3/13/2014-Welfare dated 31.03.2014 of respondent



Union of India.

6. In response, learned Senior Panel Counsel appearing on behalf of the respondents submits that the petitioner was undergoing treatment for cardio vascular disease and has been suffering from 50% locomotive disability prior to filing of W.P.(C) 5182/2020 and that the request of the petitioner was considered by the Board of the Departmental Transfer Committee (DTC) prior to his being transferred to 4th Battalion Lucknow as also that the petitioner had not submitted any medical documents/opinion mentioning that he can only be treated in Delhi/ Gurgaon.

7. This Court has heard the learned counsel for the parties and perused the documents on record.

8. *Prima facie*, the present application is not maintainable as the writ petition has already been disposed of and the petitioner has not assailed the subsequent order dated 09.08.2023 passed thereafter, which is a fresh cause of action.

9. Even otherwise, the petitioner has admittedly not alleged any bias or *mala fide*, vindictiveness on the part of the respondents or that there is any violation of any statutory requirements, rules, regulations.

10. Moreover, the petitioner has been unable to show as to what are the medical facilities required, which are exclusively available in Delhi and are not available in a city like Lucknow.

11. As per settled law, transfer is an exigency of service which ought not to be interfered by a Court of law, especially, when it is pertaining to Armed Forces, as they are the best judges who exercise their discretion and form an opinion thereon. This Court finds able support in ***Major General J.K. Bansal v. Union of India*** (2005) 7 SCC 227, ***Param***



2024:DHC:314-DB



Hansh Mishra v Union of India & Ors. (2007) 143 DLT 302 (DB) and
CT/GD Jagat Ram & Ors. v Union of India & Ors. 2017 SCC OnLine
Del 7882.

12. Accordingly, in view of the existing facts involved herein coupled
with the settled position of law, the present application is dismissed,
leaving the parties to bear their own respective costs.

(SAURABH BANERJEE)
JUDGE

(V. KAMESWAR RAO)
JUDGE

JANUARY 16, 2024
So