

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4558 of 2022

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Brij Raj Ojha S/o Sh. Baban Ojha R/o Village and Post Bikramganj, P.S. Bikramganj, District - Rohtas, presently posted as UDC at 111 RCC (GREF)/753 BRTF C/o 56 APO, PIN No. 930111.

... .. Petitioner

Versus

1. The Union of India through the Secretary, Ministry of Defence, Government of India, Border Road Wing, 4th Floor B Wing, Sena Bhawan, New Delhi-110011.
2. The Director General of Border Road Organization, Ministry of Defence, Government of India, Seema Sadak Bhawan, Ring Road, Delhi Cantt, New Delhi.
3. The Officer-in-Charge GREF Record and Center, Dighi Camp, Pune.
4. The Chief Engineer, Headquarter, CE(P) Himank C/o 56 APO.
5. The Commander, Headquarter 753 BRTF C/o 56 APO, PIN - 930753.
6. OC 111 RCC GREF C/o 56 APO, PIN - 930111.

... .. Respondents

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Appearance :

For the Petitioner/s	:	Ms.Neha Kumari Giri, Advocate Mr.Jitendra Kumar Giri, Advocate
For the Respondent/s	:	Mr.A.K. Pandey, SCGC Mr.R.K. Sharma, CGC

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 28-03-2023 Defect No. 8 be ignored. So far as the other defects are concerned, learned counsel for the petitioner undertakes to remove the defects within two weeks from today.

Learned proxy counsel for the petitioner has prayed for adjournment, however, considering that this is a transfer matter and the pleadings are complete in this case, this Court has called upon learned counsel for the petitioner and the Union of India to argue the matter on merit.

Heard learned counsel for the petitioner and learned



counsel for the Union of India.

Petitioner, in the present case, is aggrieved by and dissatisfied with the order vide PO No. 1228/GP-IV/UDC/QE SEP/2021 FA5 (with respect to the petitioner alone) issued and signed under the signature of Major Senior Records Officer for OIC Records, Headquarters, GREF Record and Center, Dighi Camp, Pune-15. Petitioner's further prayer is to direct the State respondents to retain the petitioner at 111RCC Unit (GREF) C/o 56 APO in the capacity of Upper Divisional Clerk till the disposal of the grievance of the petitioner raised before the Grievance Cell, Headquarter Director General Border Road, Seeka Sadak Bhawan, Ring Road, Delhi Cantt, New Delhi-10.

It appears on perusal of the writ application that the petitioner was posted as Lower Division Clerk in the year 2009. He has been promoted to the post of Upper Divisional Clerk. His grievance is with regard to his present place of posting at 86 RCC Headquarters 758 BRTF Swastik in the State of Sikkim as contained in Annexure '1' to the writ application. He seems to have raised his grievance against the said transfer saying that he has already rendered his service in High Altitude Area/Heard Hard Area/Extremely Hostile Area which would be evident from his service profile as contained in Annexure '3' to the writ



application.

It is his further grievance that the other candidates/colleagues such as those stated in paragraph '9' of the writ application have not been transferred to the place as of the petitioner, rather they have been retained in High Altitude Area, whereas, the petitioner has been discriminated despite the fact that his service tenure and the nature of work is the same and one. The petitioner has been asked to join in the High Altitude Area which is quite discriminatory and arbitrary in nature.

A counter affidavit has been filed on behalf of the Union of India. It is not denied that the petitioner had completed High Altitude Area. In paragraph '5' of the counter affidavit, it is stated that the petitioner was asked to submit his choice stations of posting from 111 RCC Project, Himang as provisioned in para '13' of Chapter '24' of ROI 01/2019.

The respondents have, however, come out with a statement that due to non-availability of vacancies at the aforesaid choice stations, except HQ DGBR at New Delhi, the posting of the petitioner has been considered and issued to 86 RCC Project Swastik (Hard Area) located at Rangma Range of Sikkim (Eastern Sector) vide GREF Records. It is stated that the petitioner was due for posting to Eastern Sector considering his



entire service of 12.25 years, accordingly, he was posted to 86 RCC Project Swastik as his first Hard Area posting. The third choice station submitted by the petitioner also comes under Project Swastik Personnel posted with HQ DGBR.

Answering the statements made in paragraph '9' of the writ petition, it is stated that Deepak Kumar and Pradeep Kumar Sahu have been posted at Headquarter DGBR during the quarter ending September 2021 and December 2021 based on the limited vacancy. It has been sought to be justified on the ground that personnel posted with HQ DGBR should have adequate knowledge to deal with officers posting, legal cases, promotions, financial matters etc. Considering this aspect as well as service seniority of above personnel compared to the petitioner, they were considered for posting to HQ DGBR.

Having heard learned counsel for the petitioner and the Union of India, *prima-facie* this Court finds no reason to interfere with the order of posting. This Court would, however, indicate that the statements made in Paragraph '23' of the counter affidavit should have been more specific. It nowhere states that the petitioner has not dealt with such matters like officers postings, legal cases, promotions, financial matters etc. and it nowhere mentions that those who have been given the



posting at Headquarter DGBR are not similarly situated to the petitioner. This Court is of the opinion that in such circumstance similar treatment be also given to the petitioner and in future if the vacancies occur in any of the choice situations, as stated in Paragraph ‘5’ of the counter affidavit, the case of the petitioner be considered for the same.

With the aforesaid observations and directions, this application stands disposed of.

(Rajeev Ranjan Prasad, J.)

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