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Ct. No. 04

Akd

WP.CT. 9 of 2023

**Sk. Nasiruddin & Anr.
Vs.
Union of India & Ors.**

Ms. Nandini Mitra.

... for the petitioners.

Mr. Pramit Kumar Roy,

Mr. Somnath Ghoshal,

Ms. Atnaja Bandyopadhyay.

... for the respondents.

Mr. Pradip Kumar Das,

Mr. Subhas Chandra Basu.

... for the respondent no. 4.

The instant writ petition is filed challenging the order dated 19th January, 2023 passed by the Central Administrative Tribunal in OA 2032 of 2022; whereby and whereunder the said matter is fixed on 3rd February, 2023 for final hearing.

The challenge is made to an order of transfer, which, according to the writ petitioners, is contrary to the guideline or the policy decision. It is submitted that the Central Government more particularly the Ministry of Defence have deleted the particular clause appearing in para 6(XVI) of the said policy guidelines, but the Eastern Command is still continuing to inconsist upon and implementing the same which is impermissible.

It appears that the other matters are also tagged with the instant matter which are otherwise ready for final disposal. The Tribunal is in seisin of the matter and yet to take a decision whether there is any infraction or violation of the policy guidelines at the behest of the respondent authorities.

Since the identical point has been raised and interim order was sought as an urgent relief, it is an

ardent duty of the Tribunal to consider the said prayer and decide whether to grant or not to grant. The Tribunal should not have kept the matter tagged with other matters, as the similar point has been raised. It appears that there has been an interim order passed in those proceedings, which have been allowed to continue by the impugned order.

Such being the fact, the Tribunal ought to have recorded the reasons on the prayer of the interim relief. We would have entertained the writ petition otherwise, but after noticing that the matter is fixed day after tomorrow we, therefore, feel that it should be left to the wisdom of the Tribunal to consider the case and pass reasoned order in accordance with law.

We grant liberty to the petitioners to pray for interim relief on the date so fixed, i.e. 3rd February, 2023 and the moment such prayer is renewed the Tribunal shall decide the same and pass an appropriate order as permissible in law.

With these observations the writ petition is disposed of.

However, we make it clear that we had no occasion to go into the merit or demerit of the contention of the writ petitioners before us or in the tribunal application and the Tribunal shall be free to take a decision uninfluenced by the fact that we have not passed any interim order in the instant writ petition.

(Harish Tandon, J.)

(Prasenjit Biswas, J.)

