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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

33 WRIT PETITION NO.5352 OF 2023

**RAMKISHAN SHANKARRAO DAWARE
VERSUS
THE UNION OF INDIA THROUGH THE SECRETARY AND
OTHERS**

....

Mr Angad L. Kanade, Advocate for Petitioner;
Mr Bhushan B. Kulkarni, Standing Counsel for Respondents

**CORAM : RAVINDRA V. GHUGE
AND
Y. G. KHOBRAGADE, JJ.**

DATE : 5th June, 2023

PER COURT:

1. The Petitioner has put forth prayer clauses (B), (C) and (D), as under :-

“B] By issuing appropriate writ, order or directions to the respondents No.2 to 5 for granting one year retention to the transfer of petitioner from Central Training College-3 (CTC) CRPF Mudkhed, Dist. Nanded to 5 Signal Battalion (BN) Chandigarh on the Medical Grounds of his spouse and sudden death of his son.

C] The official communication signal dated 12.4.2023 from 2 Signal Bn to CTC-3 Mkd regarding reference IGP communication message No. T-IX-3/ 2023-02-Sig-EC-1 may kindly be quashed and set aside.

D] Pending hearing and final disposal of this writ petition the execution and implementation of official

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communication signal dated 12.4.2023 from 2 Signal Bn to CTC-3 Mkd regarding reference IGP communication message No. T-IX-3/ 2023-02-Sig-EC-1 may kindly be stayed.”

2. The Petitioner is working as a Head Constable/Radio Operator in the Central Training College-3, Central Reserve Police Force, 2 Signal (BN), Mudkhed, Tq. Mudkhed, Dist. Nanded. He has been transferred to Chandigad. It is not disputed that transfer is a normal incident in service and the Petitioner prays for deferring his transfer by retaining him for one year at Mudkhed, for the reason that his son, who was 17 years old, expired on 30/05/2021 on account of drowning in a Canal. The other ground put forth is, that his wife is suffering from “Schizophrenia, Anxiety Neurosis and Depression”.

3. We have considered the strenuous submissions of the learned Advocate for the Petitioner and the learned Standing Counsel for the Union of India. It is undisputed that the Petitioner’s son passed away on 30/05/2021 and thereafter, his transfer has been deferred on two occasions and there are two orders passed for retaining him at Mudkhed. It is after two years

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and on conclusion of the second order of the retention, that he is now required to join at Chandigarh.

4. The Petitioner and his wife had two children. The oldest one was the son, who has unfortunately passed away. The Petitioner has a daughter, who is four years old. She is born on 21/12/2018. The Petitioner and his wife are now desirous of having another child.

5. We have perused the certificate placed on record, dated 25/02/2023, which is a sort of a medical certificate issued by the Hospital. The Doctor, who has issued the certificate is a Gynecologist and Laparoscopic Surgeon. We are surprised, as to how such a Doctor could declare that the wife of the Petitioner is suffering from depression and is under treatment. It is also mentioned in the certificate that she is willing for conception.

6. Another report dated 01/07/2022 of another Hospital is placed before us, which indicates a Thyroid Function Test. The three tests i.e. T-3, T-4 and TSH are within the normal range. The same Hospital has issued a pathology test report dated 01/07/2022 with regard to estimation of Serum Anti Mullerian Hormone (AMH). We are circumspect that, how can the Petitioner argue

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before the Court, that his wife is rendered infertile, when the girl child is delivered four years ago. There is not a single medical certificate, which would justify the contention of the Petitioner, as is canvassed in the Court, that his wife has been rendered Schizophrenic and has Anxiety Neurosis.

7. Considering the above and taking into account the fact that the Respondent/department has sympathetically considered the case of the Petitioner and has already deferred the transfer to Chandigarh for two consecutive years, we do not find it appropriate to exercise our writ jurisdiction and direct the Competent Authority to once again defer the transfer of the Petitioner, after a passage of two years since the death of his son, and since the girl child is born, who is four years old.

8. In view of the above, this petition is dismissed.

9. We grant time up-till 30/06/2023 to enable the Petitioner to join at the place of transfer.

(Y. G. KHOBRADE, J.)

(RAVINDRA V. GHUGE, J.)

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