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

% ***Date of decision: 02nd June, 2023***

+ **W.P.(C) 8234/2023**

KULDEEP

..... Petitioner

Through: **Mr. P. Sureshan, Advocate**

Versus

DG CISF AND ORS.

.... Respondents

Through: **Ms. Anushkaa Arora, Senior Panel Counsel with Ms. Gunjan Jain, Ms. Priya Mishra, GP, Ms. Jyoti, Advocates, SI Prahlad Devenda and HC Arvind Kumar, CISF**

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T (oral)

CM APPL. 31596/2023 (for exemption)

CM APPL. 31597/2023 (for exemption)

1. Allowed, subject to all just exceptions.
2. Applications stand disposed of.

W.P.(C) 8234/2023

3. Vide the present petition, the petitioner is seeking following reliefs:

“a) To issue a writ of mandamus directing the respondent, DG CISF, New Delhi, to transfer the petitioner at any CISF units of North Sector only as he is having the required merit for getting a home sector posting in terms of the circular dated 25.9.2017.

b) Direct the respondent to produce the entire posting merit list of CISF Insp/exe those who are serving at North sector Units as their



Home sector which was prepared in terms of the circular dated 25.9.2017 and also direct them to explain as to how petitioner is lower in merit list compared to the named personnel in Annexure P11 list.
c) Quash and set aside the letter dated 28.11.2022 as the same is illegal and erroneous.
d) Direct the respondents to pay cost of this litigation to the petitioner.”

4. Learned counsel on behalf of the petitioner submits that the petitioner was posted in CISF in 1997 and has served approximately 18 years and four months out of home sector unit. It is further submitted by learned counsel for petitioner that petitioner has served in his Home Sector posting only for a period of six years and four months.
5. To substantiate the case, learned counsel for the petitioner has placed reliance on the Circular No. 22/2017 dated 25.09.2017 issued by the respondent No.1/Director General, CISF, wherein it has been mentioned that the 4th Tenure (Remaining Service) will be in the Home Sector.
6. Learned counsel for petitioner has also relied upon judgment passed by a Co-ordinate Bench of this Court in **W.P.(C) 6726/2015** titled as ***Union of India & Ors. Vs. Yogender Mittal***, however, the said judgment pertains to Indian Revenue Service Officer having all India Transfer Liability. In the said judgment, a reference has been made to the decision of the Apex Court in ***Shilpi Bose vs. State of Bihar AIR 1991 SC 532***, wherein it was observed that “*the Courts should not interfere with the transfer orders which are made in the public interest and for administrative reasons unless the transfer orders in violation of any mandatory statutory rule or on the ground of mala fide*”.
7. In the present case, the petitioner aside from claiming that there are other officials, who are junior to him, have been given home sector, has not



pleaded any *mala fide* or breach of statutory requirements. It cannot be overlooked that the petitioner belongs to Defence Services and it is not in the interest of the country or in the administration of this Court to interfere in the transfer orders.

8. Learned counsel for the petitioner has claimed that since the petitioner has been posted for a lesser tenure in Home Sector, he is entitled to be posted in the Home Sector in accordance with Circular No. 22/2017 and, therefore, the letter dated 28.11.2022 issued by Senior Commandant's office is liable to be set aside.

9. However, it has been clarified in the Circular No.22/2017 dated 25.09.2017 that these guidelines would only serve as broad parameter for posting the CISF personnel, however, the final decision in regard to posting and transfer will rest with the competent authorities in CISF and will be governed by the operational and administrative necessities of the Force.

10. Moreover, in Paragraph-12 of the said Circular, it has been further clarified that the Out of Home Sector (OHS) and Home Sector (HS) tenure for posting in respect of NGOs are subject to availability of vacancies, operational and administrative needs and new inductions. In addition, the Home Sector posting will be considered subject to availability of vacancies in the Home Sector (vacancies would be calculated with stipulation that the Sector should not have more than 60% of Home Sector personnel). This shall be applicable for both Home Sector tenures (2nd and 4th tenures).

11. The petitioner had raised an online grievance dated 25.03.2023 to the respondents qua his posting in Delhi/NCR. However, learned counsel for the respondents submits that the representations of the petitioner have been duly considered by the respondent No.1/Director General, CISF and rejected



the same.

12. It is settled law that the Courts should not interfere in the matters related to transfer and posting of the Force personnel unless it is so warranted in given facts and circumstances of the case. However, the present case does not fall in that category.

13. Accordingly, we find no ground in the present petition, and the same is, accordingly, dismissed.

(SURESH KUMAR KAIT)
JUDGE

(NEENA BANSAL KRISHNA)
JUDGE

JUNE 2, 2023/rk