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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
 + W.P.(C) 8579/2023, CM APPL. 32605/2023, CM APPL. 32606/2023 & CM APPL. 32607/2023

JAIBIR SINGH Petitioner

Through: Mr. P. Sureshan, Advocate.

versus

DIRECTOR GENERAL CISF AND OTHERS

..... Respondents

Through: Mr. Jatin singh, Mr. Keshav Sehgal, Mr. Shivan Gaur and Ms. Ramya Soni, Advs. with Mr. Sanjay Kumar Inspector, CISF

CORAM:

HON'BLE MR. JUSTICE C.HARI SHANKAR

HON'BLE MR. JUSTICE MANOJ JAIN

ORDER (O R A L)

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28.06.2023

per C.HARI SHANKAR, J

1. Mr. Keshav Sehgal submits, at the outset, that his presence has not been recorded for the respondent on the last date of hearing. It is clarified that Mr. Keshav Sehgal was present.

2. The petitioner was appointed as a Force member in the CISF in 1987. He has provided, in the writ petition, the details of the postings that he has suffered over time from 23 June 1987 till 1 April 2017 thus:



From Date	Unit Name	Posting Category	Sector Name
23-06-1987	RTC BARWAHA	Basic Training Period	TRG HQrs NISA
30-03-1988	PPT PARADEEP	Normal	East
21-07-1993	DSP DURGAPUR	Normal	North East
01-07-1996	2ND RB DELHI	Normal	North
01-07-1997	FHQ CISF state where served not updated	Normal	Deputation
01-03-1999	DELHI POLICE state where served not updated	Normal	Deputation
14-01-2003	SDSC SRIHARIKOTA	Normal	South
01-05-2006	VSSC THUMBA	Normal	South
10-05-2009	CHANDIGARH AIRPORT	Normal	Airport-I New Delhi
07-05-2013	CGBS NEW DELHI	Normal	Airport-I New Delhi
01-04-2017	IGI AIR PORT	Normal	Airport-I New Delhi

3. The petitioner is aggrieved by order dated 17 May 2023, whereby the petitioner has been transferred to the North Zone Airport Unit, Dehradun, from New Delhi.

4. Mr. Sureshan, learned Counsel appearing for the petitioner, initially, reiterated the stand taken in the petition, to the effect that the transfer was in violation of circular dated 25 September 2017, which contains the guidelines of postings/transfer of CISF personnel in various sectors of the CISF. The stand taken in the writ petition is that the writ petition relies on para 12 of the aforementioned circular, which normally advises against transferring of a person outside the home sector in the last tenure of the person's posting.



5. Mr. Sureshan submits that the petitioner was, till the issuance of the impugned order, posted at CISF Unit IGI Airport and that, by transferring the petitioner to Dehradun, the aforementioned guidelines have been violated.

6. *Prima facie*, this contention cannot be accepted in view of paras 13 and 14 of the guidelines which read thus:

13. For the purpose of this policy there shall be following Sectors.

i) **North Sector-** Comprising of J&K, Punjab, Himachal Pradesh, Haryana, Rajasthan, Chandigarh, Uttarakhand & UP excluding the districts under Eastern UP as mentioned under Eastern Sector.

ii) **NCR Sector** - Comprising of units under NCR Zone, SSG, GBS, DMRC & other Units as notified under NCR Sector from time to time.

iii) **Eastern Sector** - Comprising of Bihar, Jharkhand and Eastern UP (districts of Varanasi, Jaunpur, Ghazipur, Chandauli, Mirzapur, Sant Ravidas Nagar, Sonbhadra, Deoria, Gorakhpur, Kushi Nagar, Maharaj Ganj, Ambedkar Nagar, Faizabad, Sultanpur, Amethi, Barabanki, Bahraich, Balrampur, Gonda, Shravasti, Basti, Sant Kabir Nagar, Siddharth Nagar, Azamgarh, Balia, Mau, Allahabad, Fatehpur, Kaushambi, Pratapgarh).

iv) **South Eastern Sector-** Comprising of West Bengal, Orissa, Andaman & Nicobar Islands and Sikkim.

v) **North Eastern Sector** - Assam, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Meghalaya and Tripura.

vi) **Central Sector** - Madhya Pradesh and Chhattisgarh.

vii) **Western Sector** - Maharashtra, Goa, Gujarat,



Daman & Diu and Dadra Nagar Haveli.

viii) **Southern Sector** - Andhra Pradesh, Karnataka, Kerala, Telangana, Tamil Nadu, Puducherry and Lakshadweep.

However, the area under Sectors can be changed by the DG/CISF at any time depending upon administrative requirement and operational exigencies.

14. For the purpose of this policy "Home Sector" means the sector under which the Home address of personnel declared at the time of appointment, falls. All other sectors shall be treated as OHS. *However the proposed NCR & North Sector shall be treated one sector for the purpose of this policy.* The personnel posted in North and NCR sectors are liable to be transferred and rotated between North Sector and NCR Sector any time, which shall not be treated as Inter Sector Transfer (IST)."

(Emphasis supplied)

7. A conjoint reading of paras 13 and 14 of the aforementioned circular no. 22 of 2017 reveal that, though the NCR Zone, where the petitioner is presently posted, falls under the "NCR Sector", and Uttarakhand, to where the petitioner has been transferred, falls under the "North Sector", both sectors are treated as one sector for the purposes of implementation of the aforementioned guidelines, by para 14 thereof.

8. As such, the submission that the petitioner is being subjected to inter sector transfer during the last tenure of his posting cannot be accepted.

9. Faced with this situation, Mr. Sureshan falls back on an alternative contention premised on the principle of legitimate expectation. He submits that the petitioner had the legitimate expectation that, during the last tenure of his posting, he would not be



posted outside at a place distant from where he is presently posted. He submits that, *inter alia*, one of the reasons why the petitioner desires to continue to stay at Delhi is that, after he retires, he has to proceed with the department for obtaining his retiral benefits and that, as retiral benefits would be disbursed at the station where the officer is last posted, it would be difficult for the petitioner, after retirement, to travel from Delhi to Dehradun for his terminal emoluments.

10. Mr. Keshav Sehgal, learned Counsel for the respondent, assuages this apprehension by stating, on instructions, that the pay and accounts office, both for postings at Delhi and Dehradun, is located at Delhi. As such, he submits that the petitioner would not face any hardship even if he is transferred to the Dehradun for the present as, after retirement, he would return to Delhi and obtain his retiral benefits from Delhi itself.

11. It is well settled that orders of transfer are ordinarily not to be interfered with. A Coordinate Division Bench of this Court, presided by Hon'ble the Chief Justice has, recently, in ***Alok Kumar Verma v. UOI***¹ examined the legal position in this regard and come to the conclusion that, as the law stands today, transfer is an inevitable incidence of service and that, save and except cases where the transfer is vitiated by *mala fides*, no injunctive orders restraining transfers should be passed by Courts. The relevance passages from the said decision may be reproduced thus:

¹ 2022 SCC OnLine Del 4061



“.....In *Public Services Tribunal Bar Association v. State of U.P.*², Hon'ble Supreme Court ruled that transfer is an incident of service and is made in administrative exigencies. Normally, it is not to be interfered with by the Court, except in rare cases where the transfer has been made in a vindictive manner. Para 38 of the judgment read as under:—

“38. Transfer is an incident of service and is made in administrative exigencies. Normally, it is not to be interfered with by the Courts. This Court consistently has been taken a view that orders of transfer should not be interfered with except in rare cases here the transfer has been made in a vindictive manner”.

In *Sujata Kohli v. High Court of Delhi*³, Hon'ble Delhi High Court reiterated the aforementioned view taken by Hon'ble Supreme Court, in the following words:—

“12. It is not in dispute that transfer is an incidence of service and the High Court, which has the superintending control over the subordinate judiciary, is empowered to decide about the posting, transfer, promotion etc. of the judicial officers belonging to the subordinate judiciary. Law in the matter of transfers is also well settled by catena of judgments of the Apex Court. Instead of taking note of all these judgments, it would be sufficient to refer to two decisions of the Apex Court wherein the Court considered its earlier decisions. First case, note whereof we take, is *Kendriya Vidyalaya Sangathan v. Damodar Prasad Pandey*⁴, wherein the Court reiterated the principle of law in the following terms:

“Transfer which is an incidence of service is not to be interfered with by the Courts unless it is shown to be clearly arbitrary or visited by malafide or infraction of any prescribed norms of principles governing the transfer (see *Ambani Kanta*

² (2003 (3) SLJ 14)

³ (2008) 148 DLT 17 (DB)

⁴ (2004) 12 SCC 299



Ray v. State of Orissa⁵). Unless the order of transfer is visited by malafide or is made in violation of operative guidelines, the Court cannot interfere with it (see **Union of India v. S.L. Abbas**⁶). Who should be transferred and posted where is a matter for the administrative authority to decide. Unless the order of transfer is vitiated by malafide or is made in violation of operative any guidelines or rules the courts should not ordinarily interfere with it. In **Union of India v. Janardhan Debanath**⁷ it was observed as follows:

“No government servant or employee of a public undertaking has any legal right to be posted forever at any one particular place or place of his choice since transfer of a particular employee appointed to the class or category of transferable posts from one place to another is not only an incident, but a condition of service, necessary too in public interest and efficiency in the public administration. Unless an order of transfer is shown to be an outcome of mala fide exercise or stated to be in violation of statutory provisions prohibiting any such transfer, the courts or the tribunals normally cannot interfere with such orders as a matter of routine, as though they were the appellate authorities substituting their own decision for that of the employer/management, as against such orders passed in the interest of administrative exigencies of the service concerned. This position was highlighted by this Court in **National Hydroelectric Power Corporation Ltd. v. Shri Bhagwan**⁸.”

12. For all the aforesaid reasons, this Court regrets that this Court is not in a position to come to the assistance of the petitioner. Even

⁵ 1995 Supp (4) SCC 169

⁶ (1993) 4 SCC 357

⁷ (2004) 4 SCC 245

⁸ (2001) 8 SCC 574



otherwise, the Court is aware that Dehradun is not unreasonably distant from Delhi.

13. The writ petition is accordingly dismissed.

C.HARI SHANKAR, J
(VACATION JUDGE)

MANOJ JAIN, J
(VACATION JUDGE)

JUNE 28, 2023
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