



\$~44

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

Judgment delivered on: 12.09.2023

+ **W.P.(C) 11856/2023 & CM APPL. 46285/2023 & CM APPL. 46286/2023****SUBEDAR AC JEYA KUMAR**

..... Petitioner

versus

**UNION OF INDIA THROUGH SECRETARY MINISTRY OF
DEFENCE ARMY AND ORS**

..... Respondents

Advocates who appeared in this case:For the Petitioner: Mr. Anish Shrestha and Mr. Brijballabh Tiwari,
AdvocatesFor the Respondents: Ms. Ritu Reniwal, Senior Panel Counsel with Mr.
Ravindra Vikram, Advocate for UOI
Maj. Partho Katyayan**CORAM:****HON'BLE MR. JUSTICE SANJEEV SACHDEVA****HON'BLE MR. JUSTICE MANOJ JAIN****JUDGMENT****SANJEEV SACHDEVA, J. (ORAL)**

1. Petitioner seeks setting aside of posting/transfer order dated 06.07.2023 and 02.08.2023 wherein petitioner has been posted from Delhi to 158 Base Hospital Bagdogra, West Bengal.



2. Learned counsel for the petitioner submits that the daughter of the petitioner is studying in Class-XII and has board examinations in February-March, 2024 and any posting is likely to disturb her studies. He further submits that petitioner is also eligible for the last leg choice posting in terms of the posting policy of the respondent.
3. Learned counsel for the respondent submits that the petitioner was posted out keeping in view the exigencies of service and the requirement of the petitioner in Base Hospital, Bagdogra.
4. Learned counsel for the respondent under instructions submits that keeping in view of the educational requirement of the daughter of the petitioner, the competent authority has agreed to permit the petitioner to retain the family accommodation till end of the academic session i.e. till April, 2024. He further submits that in case any request is made by the petitioner for availing available admissible leave, the same shall be considered favourably to enable the petitioner to counsel his daughter for the education. He further submits that in case the petitioner joins the place of posting and from there makes a request for choice last leg posting, the competent authority shall consider the same in accordance with the rules.
5. In view of the above statement, petitioner seeks leave to withdraw the petition.
6. Respondents are bound down to their statement. The respondents shall



permit the petitioner to retain the residential accommodation till end of the academic session i.e. till April, 2024; they shall also favourably consider the request of the petitioner to avail of available leaves in accordance with the rules. In case any application for last leg posting is made, the same shall be considered in accordance with the rules.

7. The petition is disposed of in the above terms.
8. Order *dasti* under signature of Court Master.

SANJEEV SACHDEVA, J

MANOJ JAIN, J

SEPTEMBER 12, 2023

‘rs’