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* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: November 29, 2023

+ W.P.(C) 14921/2023, CM APPL. Nos.59476 & 59479/2023

MAJOR SHIVALI SRIVASTAVA Petitioner

Through: Mr.Ankur Chhibber & Mr.Hansdeep
Singh, Advocates with petitioner in
person through V.C.

versus

UNION OF INDIA AND ANR. Respondents

Through: Mr.Jitesh Vikram Srivastava, Sr.Panel
Counsel with Mr.Prajesh Vikram
Srivastava, Govt. Pleader.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

V. KAMESWAR RAO, J. (ORAL)

1. The challenge in this writ petition is to an order dated October 06, 2023 passed by the Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter, referred to as the 'Tribunal') in OA No.1559/2023 whereby the Tribunal has disposed of the OA filed by the petitioner herein by stating in paragraph 7 as under:

“7. In view of what has been detailed and discussed above, the present Original Application is disposed of with a direction to the competent authority amongst the respondents to take a fresh look at the entire matter and consider the prayer of the



applicant against the background of the facts and circumstances explained by her and as recorded hereinabove. I offer a liberty of one week from today to the applicant, should she so wish, to prefer a fresh representation to the competent authority giving the details of her circumstances. The competent authority shall take an appropriate decision upon such a representation if so preferred or in the alternative in the entire matter of the transfer order of the applicant, as expeditiously as possible preferably within a period of one week thereafter.”

2. The submission of Mr. Chhibber is that the petitioner has two children of age 06 and 12 years and are studying in Classes 2 and 8, respectively and her husband who is working in Navy has been posted out of the country and he intends to return back in the month of June, 2024. It is not possible for the petitioner to change their school during mid-academic session. He further submits that, as per his instructions, the academic session of the schools at Srinagar has come to an end inasmuch as the schools have been closed for winter vacation till the end of February, 2024, whereupon, the final examinations shall be held. It will not be feasible for the petitioner to seek admission for children in a new school in Srinagar.

Mr. Chhibber also submits that the petitioner, who has joined the Court proceedings through V.C. undertakes to join the place of transfer at Srinagar on July 01, 2024 after her husband return from his posting abroad.

3. On the other hand, learned counsel for the respondents would submit that the plea of mid-academic session shall not be available to the petitioner as the transfer order was issued on March 24, 2023. That apart, appropriate school facilities are available at Srinagar. She can also avail the residential facility in the Cantonment area. He also submits that the posting of the petitioner, is in NCC Battalion at Srinagar primarily to train the girl students



who are studying in different schools at Srinagar.

4. We had heard learned counsel for the parties on earlier occasion and also today.

5. It is true that the transfer order was passed in the month of March, 2023 but the same was stayed by the Tribunal during the pendency of the O.A. before it. The O.A. was decided only on October 06, 2023, i.e., during the mid academic session. Today, we are in the month of November 2023. Surely, any dislocation of the petitioner from her posting at Vizianagaram, Andhra Pradesh, shall entail hardship to her children. Further, it is the submission of Mr. Chibber that the academic session of the schools in Srinagar has already come to an end on November 28, 2023 i.e., yesterday. Now the schools in Srinagar shall reopen only for final examination in the month of March, 2024. No doubt, the reason given by the respondents for posting the petitioner at Srinagar is primarily to train the girl students who are studying in different schools in Srinagar though appealing but keeping in view the fact that the husband of the petitioner is on duty, outside the country, it is not possible for the petitioner to shift to a new place which shall entail admission of her children in a new school and also looking for a new house etc. We are of the view that the petitioner should not be disturbed from her present place of posting at Vizianagaram, Andhra Pradesh. Having said that, we also take on record the undertaking given by the petitioner by appearing in these proceedings through virtual mode that she shall join the transfer post at Srinagar on July 01, 2024 by making it clear that any violation of the undertaking shall be taken very seriously by this Court. We dispose of this writ petition by directing that the petitioner shall not be relieved from her posting at Vizianagaram, Andhra Pradesh, till June 30,



2024 when she will be relieved for joining her place of posting at Srinagar on July 01, 2024.

6. The petition is disposed of. All pending applications have become infructuous.

V. KAMESWAR RAO, J.

ANOOP KUMAR MENDIRATTA, J.

NOVEMBER 29, 2023/v