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

\+ W.P.(C) 5125/2022

SHAMBHU NATH RAI .....Petitioner

Through: Mr.Rahul Malhotra, Adv.

versus

UNION OF INDIA & ORS. .....Respondents

Through: Ms.Avshreya Pratap Singh Rudy, SPC with Ms.Usha Jamnal, Ms.Harshita Chaturvedi, Advs. for UOI
Mr.Hemendra Singh, Dy. Comdt (Law)

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA
HON'BLE MS. JUSTICE SHALINDER KAUR

O R D E R

% 31.01.2025

CM APPL. 4320/2025

1. By the present application, the petitioner prayed for revival of the writ petition which was disposed of by an Order dated 12.09.2024 of this Court.

2. By the Order of 12.09.2024, this Court had extended the time for the petitioner to join the new place of posting and at the same time to remain in Delhi till 31.01.2025. Liberty was, however, granted to the petitioner to approach this Court again in case the petitioner becomes aware of any policy due to which he could be retained further in Delhi due to the medical condition of his son. Availing of this liberty, the petitioner has filed the present application placing reliance on the Office Memorandum dated 07.09.2017 and the Office

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Memorandum dated 19.03.2018 issued by the Government of India, Ministry of Home Affairs (Police-II Division), which provides that a government servant who is also a care giver of a disabled child/dependant, may be exempted from the routine exercise of transfer/rotational transfer subject to administrative constraints.

3. We had required the learned counsel for the respondents to seek instructions on the application.

4. The learned counsel for the respondents informed this Court that the son of the petitioner is major and is also employed and earning a handsome salary. She further informed that the petitioner has been now posted to Silchar, Assam where there is adequate medical facility available.

5. We had then required the petitioner to file an affidavit clearly stating the medical condition of his son, whether he is employed and, if so, the income that he is earning.

6. The petitioner has filed an affidavit dated 30.01.2025 in compliance with our Order. The affidavit, *inter alia*, states that the son of the petitioner is aged around 30 years and is working for Mercedes Benz Research and Development India, and earning around Rs.95,000/- per month. The petitioner further states that the petitioner, on transfer, would be stationed at Masimpur, Silchar, Assam, which is 10 kms. away from the main city of Silchar, and therefore, the place of posting would not be medically suitable for the son of the petitioner.

7. We do not find that the above circumstances would justify the further retention of the petitioner once the respondents have again re-considered the case of the petitioner on our persuasion.

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8. While we were dictating our order giving reasons for our above opinion, at this stage, the learned counsel for the petitioner submits that the medical facilities that are available at Kolkata and at Bangalore are more appropriate for the well-being of the son of the petitioner and the petitioner shall be satisfied if the respondents consider posting him at any of these locations.

9. While we do not see any reason to interfere with or recall our Order dated 12.09.2024, at the same time, subject to the petitioner joining the new place of posting by 05.02.2025 in accordance with his undertaking, we direct the respondents to consider the request of the petitioner for his posting at Kolkata or Bangalore, subject to service exigencies, remaining uninfluenced by our present Order while specially keeping in view the medical condition of the son of the petitioner and in a sympathetic manner. The respondents shall communicate their decision on the above to the petitioner within a period of eight weeks.

10. With the above observations, the application is disposed of.

CM APPL. 4034/2025

11. This application has been rendered infructuous and is disposed of. The next date of hearing in the same, that is, 27.02.2025 is cancelled.

NAVIN CHAWLA, J

SHALINDER KAUR, J

JANUARY 31, 2025/sg/IK

Click here to check corrigendum, if any

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