



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

% Judgment delivered on: 26th February, 2024

+ W.P.(C) 5137/2023 & CM APPL.20071/2023

ALI MOHAMMED

..... Petitioner

versus

DG, CISF AND ORS.

..... Respondents

Advocates who appeared in this case:

For the petitioner: Mr. P. Sureshan, Advocate

For the Respondent: Mr. Hilal Haider, GP and Mr. Tanvir Ansari, SPG

CORAM:-

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

HON'BLE MR. JUSTICE MANOJ JAIN

JUDGMENT

MANOJ JAIN, J

1. Petitioner is posted as Assistant Sub Inspector/Executive in Central Industrial Security Force (CISF). He seeks quashing of his transfer order with direction to respondents to retain him in his home sector.

2. Petitioner strongly relies on guidelines issued by respondents for posting/transfer of CISF personnel in various sectors of CISF. These are contained in Circular No.22 of 2017 dated 25.09.2017. For the purpose of said transfer policy, there are following eight 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*

3. Said policy specifies tenure of posting in Clause 12 as under: -

“12. TENURE OF POSTING

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. The details are as follows:

OUT OF HOME SECTOR/HOME SECTOR TENURE FOR CONSTABLEs, HCs, ASIs, SIs & INSPECTORs OF ALL SECTORS EXCEPT FOR EXCEPTIONS MENTIONED IN THIS CIRCULAR



BASIC TRAINING PERIOD: *NEITHER TO BE COUNTED
IN HOME SECTOR NOR OUT
OF HOME SECTOR*

- a) 1st Tenure - 07 Years in Units in Out of Home Sector
(excluding basic training)
- b) 2nd Tenure - 12 Years in Units in Home Sector
- c) 3rd Tenure - 06 years in Out of Home Sector
- d) 4th Tenure (Remaining Service) - Home Sector

Note:

1. During the Inter Sector Transfer for 3rd tenure the Individuals shall be asked their choice of Out of Home Sector (OHS) from among the existing OHSs by giving their preference for the OHSs in the order of priority and efforts shall be made to accommodate their Out of Home Sector(OHS) choices on merit subject to availability of vacancies.

Explanation

- i) Merit shall be based on the duration of OHS (in months) already served.
- ii) In case of tie, preference would be given to those having higher age. If there is still tie between two or more personnel, the preference will be given to those who have joined CISF earlier (Date of joining).
2. Home Sector posting will be considered subject to availability of vacancies in Home Sector (Vacancies would be calculated with stipulation that the Sector should not have more than 60% of HS personnel). This shall be applicable for both HS tenures (2nd and 4th tenures)
3. During Inter Sector Transfer if an individual has become eligible for HS Posting from OHS, he/she can also give his preference for maximum of two OHS (other than where he/she is presently posted) where he can be posted in the event he is not posted to his HS on account of his low merit. However, once posted to OHS as per his preference, he will have to complete the full tenure of 02/03 years as applicable, depending upon the location of unit, before he is again considered for HS posting. But such OHS posting shall not be counted against HS posting even though he had given preference for the same,



as he could not be accommodated in his HS despite being due for HS posting. This shall be applicable to postings for both the HS tenures.(2nd and 4th tenure)”

4. Since the home State of the petitioner is Uttar Pradesh, his home sector is North Sector.

5. According to petitioner, he joined CISF in the year 1988 and remained posted at various places during his such service tenure. Presently, he is in 4th service tenure. As per the above Circular and transfer policy, he is supposed to remain in home sector in 4th service tenure, till his retirement. He got home sector posting on 01.06.2019 after serving more than 18 years *out of home* sector. However, his grievance is that during his such last service tenure, he has been abruptly transferred to South Sector vide order dated 24.03.2023 issued by the respondents, in which his name figures at Serial No.372. He submitted representation seeking cancellation of transfer order citing various personal reasons. However, despite such representation, the respondent issued office order on 14.04.2023 directing the respective Terminal Commanders and Coy Commanders to relieve all such personnel and it is in the aforesaid background that he has sought cancellation of his transfer order.

6. There is no denying the fact that home sector of the petitioner is north. Admittedly, he is in his 4th service tenure. As already noted, as per the aforesaid transfer policy, any such CISF official needs to be posted in his home sector for the remainder of his service.



7. Fact, however, remains that such clause regarding posting in Home Sector in 4th tenure cannot be read in isolation.
8. The transfer policy has to be read as a whole.
9. The policy of Home Sector posting has to be taken as a broad guiding factor and cannot be, even otherwise, construed as sole deciding factor. One cannot shut its eyes to the other clauses of said policy which suggest that CISF official can be posted anywhere on administrative grounds and in the interest of operational necessities of the Force. Even the operating portion of relevant clause on which petitioner rests his case, in no uncertain terms, stipulates that the same is subject to availability of vacancies, new induction, administrative and operational needs.
10. Reference be also made to Clause 8, 9, 10 (c) and 39(xix) and (xx) in particular which read as under:-

*“08. In view of the duties and responsibilities described above, CISF personnel are liable to be deployed at any place within India and abroad. CISF has units all over the country in almost all the States. As per the provisions contained in Section-15 of CISF Act-1968(as amended from time to time), every member of the Force shall be considered to be always on duty and shall, at any time be liable to be employed at any place within or outside India. **Therefore, on administrative grounds and in the interest of operational necessities of the Force, he/she can be posted anywhere in India or abroad.***

09. However, to maintain a balance and make a system so that there is a mix of personnel belonging to Home Sector and Out of Home Sector in a unit, the following broad guidelines are hereby issued regarding transfer and tenure of posting of the personnel, which are



subject to security considerations, availability of vacancies, new inductions, administrative and operational needs and public interest.

OBJECTIVE: CISF is a Force with all India character. Personnel from all parts of the country are recruited in CISF. CISF would strive that each unit has fair distribution of personnel from that region as well as from other regions. At least 40% of personnel in a unit must be from other Sectors.

10. **SALIENT FEATURES**

- A)
 B)
 C) **It is again clarified that these guidelines would only serve as broad parameters for posting the personnel, but the final decision will rest with the competent authorities in CISF and will be governed by the operational and administrative necessities of the Force.**

39. **GENERAL**

- i)
 ii)

xix) **These are only broad guidelines for posting and transfer of CISF personnel.**

xx) **Notwithstanding the guidelines contained in this circular, any personnel may be posted anywhere at any stage by the competent authority without assigning any reason and these guidelines shall not come in the way of such transfer/posting.**

(emphasis supplied)

11. We may also point out that after the filing of the present petition and on consideration of the representation given by the petitioner, his transfer order was modified. The counter affidavit of the respondents mentions that after considering the request made by the petitioner and overall merits of his case, his posting has been changed to West



Sector, which is adjoining North Sector and that he has been allotted CISF Unit, HPCL, Mumbai.

12. Be that as it may, any CISF personnel can be deployed anywhere in India or abroad as per the operational requirements of the Force. The administrative and operational exigencies can never be sidelined or disregarded. Moreover, the aforesaid extracted clauses of the transfer policy go on to indicate that these guidelines are not sacrosanct. Thus, there is no prohibition or embargo in posting any CISF personnel anywhere and said clause in isolation cannot be used as a tool to restrict any such transfer order.

13. It is also settled position of law that the order of transfer is, ordinarily, not to be interfered with as transfer is an inevitable incidence of service. The Courts need to be very slow in interfering with such orders and may intervene only where the transfer is vitiated on account of malafide or where any exceptionally strong reason is provided by any such official.

14. We do not find anything suggestive of any vindictiveness or malafide. Merely because the petitioner is in 4th service tenure, he cannot robotically demand for his posting in home sector.

15. Transfer from one place to other is generally a condition of service. No such government servant has legal right for being posted at any particular place. Reference be made to ***Jaibir Singh vs. Director General CISF and Others***: 2023 SCC Online Del 3744, delivered by



a coordinate Bench of this Court, of which, one of us, Manoj Jain, J. was a member wherein also, the court was faced with issue of inter-sector transfer during the last tenure and it was observed that the order of transfer was ordinarily not to be interfered with.

16. In view of the above, we do not find any merit in the present writ petition.

17. We may also note that when this writ petition was taken up for the first time on 24.04.2023, there was a direction that no coercive step shall be taken against the petitioner, pursuant to the aforesaid transfer order. Such interim order continues to be in operation.

18. Since the writ petition has now been dismissed, the aforesaid order dated 24.04.2023 stands vacated.

19. However, we grant four weeks' time to the petitioner to join at his new place of posting i.e. CISF Unit, HPCL, Mumbai.

20. With the aforesaid directions, the present writ petition stands disposed of.

MANOJ JAIN, J

SANJEEV SACHDEVA, J

FEBRUARY 26, 2024
st