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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 9218/2024, CM APPL. 37766/2024 –Stay., CM APPL.
37767/2024 –Ex., CM APPL. 37768/2024 –Ex. & CM APPL.
37769/2024 –Ex
ASHISH SHARMAPetitioner

Through: Mr.Atul Kumar Singh, Adv.

versus

UNION OF INDIA & ANR.Respondent
Through: Mr.Neeraj Dubey, Adv.
Insp.Meena Menon, SI Prahlad D. SI Amit Kumar-
CISF.

CORAM:
HON'BLE MS. JUSTICE REKHA PALLI
HON'BLE MS. JUSTICE SHALINDER KAUR

ORDER

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09.07.2024

1. The present writ petition under Article 226 of the Constitution of India filed by an Inspector serving with the Central Industrial Security Force (hereinafter referred to as 'CISF'), seeks to assail the order dated 02.04.2024, vide which he has been transferred from 5th Reserve Battalion, Ghaziabad to 9th Reserve Battalion, Deoli, Rajasthan.
2. At the outset, learned counsel for the petitioner submits that since a departmental enquiry is still ongoing against the petitioner, he could not have been transferred before the same is completed. Furthermore, the petitioner is yet to complete his tenure of four years at the training centre in Ghaziabad, where he is posted as an Instructor. By drawing our attention to the circular dated 25.09.2017, he submits that the petitioner was entitled to remain in the home zone whereas he has



been prematurely transferred to an out of home zone after six years itself.

3. Finally, he submits that the petitioner is also suffering from various medical ailments and, therefore, will not be able to receive appropriate medical treatments at Deoli, Rajasthan. He, therefore, prays that the impugned order be set aside and the petitioner be allowed to complete his four years tenure at 5th Reserve Battalion, Ghaziabad as also 12 years tenure in his home-zone.
4. On the other hand, learned counsel for the respondents, who appears on advance notice vehemently, opposes the petition by contending that the petitioner has deliberately concealed from this Court that the departmental inquiry against him already stands concluded and a copy of the report of departmental enquiry has been furnished to him on 05.07.2024. By placing reliance on a recent decision of this Court in ***Kamlesh Sharma v. Union Of India and Ors [W.P.(C)8945/2024]***, he submits that the petitioner does not have any right to insist that he must be retained at the training institute for the entire tenure of four years mentioned in the circular. Further, the petitioner's plea that he is being shifted to an out of home zone is also incorrect as Deoli, which is situated in the Northern Region not only falls in his home zone but is only about 400 kilometres from Ghaziabad, where he is presently posted.
5. Finally, he submits that despite the ailments from which the petitioner claims to be suffering, he continues to be placed in medical category Shape-1 and, therefore, it is evident that he is not suffering from any



such ailment for which he cannot receive appropriate treatment at Deoli, Rajasthan.

6. Having considered the submissions of learned counsel for the parties and perused the record, we find absolutely no reason to interfere with the impugned transfer order. The petitioner has vehemently urged that he could not be transferred when a departmental enquiry was being conducted against him at Ghaziabad. The respondents have, however, pointed out that the enquiry already stands concluded and therefore, there is no merit in the petitioner's plea that he is being transferred during the pendency of a departmental enquiry.
7. We have also considered the petitioner's plea that he is in terms of the circular dated 25.09.2017 entitled to complete his four years tenure at Ghaziabad but find no merit therein. As already held by this Court in ***Kamlesh Sharma(supra)***, even though the circular dated 25.09.2017 issued by the respondents lays down the transfer policy, the guidelines laid therein are only in the nature of broad parameters, and no force personnel has a right to claim that he must be posted only in accordance with these guidelines. In fact, the circular itself provides that irrespective of those guidelines, it will be open for the respondents to post any force personnel at any station on account of operational and administrative exigencies.
8. We have also considered the petitioner's plea that since he is suffering from various medical ailments, he should be retained at Ghaziabad. Having perused the medical documents filed along with the petition, we find that the petitioner continues to be in medical category Shape-1 and there is no restriction whatsoever in his employment. Having



said so, we find that the treating Doctor at Safdarjung Hospital have observed that if possible under the Rules, the petitioner may be posted to a place where he is not required to do night duty. We expect the respondents to take this medical opinion into account while assigning duties to the petitioner at Deoli, Rajasthan.

9. For the aforesaid reasons, the writ petition along with pending applications being meritless is, accordingly, dismissed.

REKHA PALLI, J

SHALINDER KAUR, J

JULY 9, 2024

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