



\$~48

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 9897/2024 & CM APPL. 40635/2024 –Int. dir.**
SGT NEERAJ KUMARPetitioner
Through: **Mr.Kritendra Tiwari, Adv.**

versus

UNION OF INDIA AND OTHERSRespondents
Through: **Mr.Jagdish Chandra Solanki, CGSC**
& Mr.Kalyan Babu Singh, GP.
Sqn.Ldr.M.N.Khan, Sgt.Vikash Kumar.

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

ORDER
08.08.2024

%

1. The petitioner, has approached this Court by way of the present petition under Article 226 of the Constitution of India seeking cancellation of letter/Signal dated 04.07.2024 vide which his request for change of posting to 102 Sqn, Chabua, Assam was rejected.
2. As per the facts before us, the petitioner was enrolled on 27.12.2006 as an Air Warrior in Indian Air Force as Auto Tech tradesman. On 03.05.2024, he received AFRO Signal No.RDD/154 informing him about his posting at the 102 Sqn. Chabua. The petitioner sent a representation on 17.05.2024 to the respondents to change/cancel the posting order with recommendations of the Section Commander, Medical Officer as also his Commanding Officer for change of his posting on medical grounds. However, the respondent no.3 rejected the petitioner's representation on 04.07.2024 seeking change /cancellation of posting. This led the petitioner filing the present petition.



3. Putting forth his case, the learned counsel for the petitioner submits that on account of petitioner's suffering from "Seropositive Rheumatoid Arthritis" and "Axial Spondyloarthritis Overlap", the petitioner was placed in low medical category on 14.04.2024. Both these disabilities are autoimmune disorders with unknown causes and despite his best efforts to fulfill his professional duties, the severity and unpredictability of the diseases have made it challenging for the petitioner to perform his responsibilities effectively. On account of his medical conditions, the Medical Board, exempted the petitioner from range firing, security duty, sports, parade, PT, night duty, driving, heavy physical exertion, extreme climate condition, deployment duties, heavy weight lifting, prolonged standing and handling firearms has been permitted under medical advice. The petitioner consequently was placed in a low medical category. The learned counsel contends that, in such circumstances, being an Auto Tech (Driver) tradesman, petitioner now can perform only clerical duties and he may be posted to any unit with medical facility available in close vicinity.

4. He contends that the nearest medical hospital, MH Dinjan, is located 25 km away, and AFH Jorhat is situated 225 km from the unit to which he has been transferred. Further, no specialist Doctor is available at any of these places. Therefore, it would be difficult for the petitioner to undergo quarterly check up by a specialist as medically advised for him. Moreso, the nearest Rheumatologist is available at CH Kolkata which is 1400 km away and travelling for such a long distance would adversely affect his health. He, therefore, contends that the impugned order is liable to be set aside specially since it was admittedly issued on 03.05.2024 without taking into account the entire factual position and that the petitioner had been placed in a low



medical category of A₄G₄.

5. On the other hand, learned counsel for the respondents supports the impugned order and seeks dismissal of the writ petition by urging that though the petitioner's medical category of A₄G₄ was not taken into account while issuing the posting order on 03.05.2024, upon a representation made by him for re-consideration of his posting, medical opinion was taken with respect to his low medical category, wherein it was opined that there was no impediment in his being posted to 102 Sqn, Chabua, Assam as he could easily consult a Rheumatologist for periodical reviews in nearby hospitals as and when may be required. Furthermore, the respondents point out that in his entire career of seventeen years and six and a half months, the petitioner except for a period of about two years in Sri Nagar, Jammu & Kashmir has served either in Chandigarh or Nasik besides serving at Barrackpore, West Bengal. He, therefore, prays that the writ petition be dismissed.

6. At the outset, we may note that as the petitioner is working with Indian Air Force, he is governed by and is thus bound by the rules, regulations and policy decisions of the Force including his posting as may be applicable to him from time to time. The administrative and operational exigencies can never be disregarded. It is a settled legal position that transfer is an exigency of service. That being so, the concerned authority being the best judge to decide the matters of transfer postings, it is in their realm to take all the decisions thereto.

7. However, this Court can interfere with such decisions only when being arbitrary and unreasonable. We may further note that learned counsel for the respondents brought to our notice the case Print (DTG) with all the remarks while dealing with representation of the petitioner and found that as



his case for cancellation of posting was on account of medical grounds, the same was forwarded to the Medical Authority (MA) for opinion. The MA on 14.06.2024 considered the nature of the disease of the petitioner and opined that there was no ground for cancellation of his posting to 102 Sqn. Chabua, Assam despite his being placed in low medical category A₄G₄ (T-24) as medical specialist facilities are available at MH Dinjin. The petitioner could, therefore, easily avail the requisite three monthly review by a Rheumatologist from CH (EC) Kolkata. Based on the opinion of MA FARO, the case of the petitioner for cancellation of his posting to 102 Sqn. was not approved.

8. In the light of this record of the medical board as also the medical opinion noted in the case sheet pertaining to re-consideration of the petitioner's request for cancellation of the posting orders, we find absolutely no reason to interfere with the impugned order.

9. The writ petition along with pending application is, accordingly, dismissed.

REKHA PALLI, J

SHALINDER KAUR, J

AUGUST 8, 2024/sr/ab