



2024:DHC:8316-DB



\$~74

* **IN THE HIGH COURT OF DELHI AT NEW DELHI*****Date of decision: 24.10.2024***+ **W.P.(C) 15016/2024 & CM APPL. 62980/2024****VIJAY SINGH****.....Petitioner****Through: Adv. (appearance not given)****versus****UNION OF INDIA AND ORS****.....Respondents****Through: Ms. Richa Dhawan, SPC with
Mr. Anuj Chaturvedi & Ms.
Harshita Maheshwari, Advs.
Dy. JAG Devender Singh.****CORAM:****HON'BLE MR. JUSTICE NAVIN CHAWLA****HON'BLE MS. JUSTICE SHALINDER KAUR****NAVIN CHAWLA, J. (ORAL)**

1. This petition has been filed by the petitioner praying for the following reliefs:

“a. Issue a Writ in the nature of certiorari to set aside the Order No. 667 dated 13.09.2024 issued by the Office of Director General ITBP New Delhi and Order No. 38047-160 dated 23.07.2024 qua the petitioner at serial number 139, issued by the office of Director General, ITBP, New Delhi;

b. Issue a writ of mandamus directing the respondents to allow the Petitioner herein to be posted with 23rd Battalion, Dehradun for one year in view of the peculiar and compelling circumstances of the Petitioner;

c. Pass an order directing the respondent to not to transfer the petitioner from his current posting at 23th Battalion, Dehradun to any other place for a period of 1 year from today so that the petitioner and his wife can get



their medical treatment done from Composite Hospital Dehradun and take care of their 5 months old baby girl.”

2. The learned counsel for the petitioner vehemently submits that he has been placed in the Low Medical Category S1H1A1P3(T-24)E1 as he has been suffering from Dyslipidemia with effect from 14.02.2024. He submits that due to this condition, the petitioner should not be posted to the 4th Battalion Dirang, Arunachal Pradesh, where there is a lack of health centres. He further submits that the case of the petitioner has even been recommended by the Commandant for sympathetic consideration.

3. We are afraid that we cannot come to the aid of the petitioner in the present case. The respondents, by a detailed Order dated 13.09.2024, considered the representation of the petitioner and have rejected the same, observing as under:

“9. AND WHEREAS, the application of the petitioner dated 06.08.2024 has been examined and following facts came to fore:-

i. Petitioner has neither applied for transfer on medical ground in JEB-24 nor represented against transfer order of JEB-24 whereas he had represented on account of pregnancy of his wife and education of children.

ii. The petitioner and his wife had submitted only three choices for EHA/HA i.e. SHQ (Srinagar), SHQ (Bengaluru) and Eastern Command (Guwahati) on couple case through online portal for transfer in JEB-24.

iii. Transfer of individual vide Die Gen Order No. 13252-13365 dated 04.03.2024 has been considered in light of DoP&T OM No. 28034/9/2009-Estt. (A) dated 30.09.2009 and provision contained in para 9 of Standing Order-03/2023. (On couple case where the spouses belong to the same central service the



cadre controlling authority may post the spouses to the same station.)

iv. It is pertinent to mention here that the incorrect facts were placed by the learned counsel of the petitioner before the Hon'ble High Court that Battalion HQ of the 4th Bn ITBP Dirang is situated at a height of more than 14,000 feet whereas Battalion HQ of the 4th Bn ITBP Dirang is situated at a height of about 5000 to 6000 feet.

v. As per details mentioned at para-8 above, individual is unfit to serve above 9000 feet, whereas BN HQ of 4th Bn is situated below 9000 feet.

vi. The petitioner has completed his normal tenure 3 years at 23rd Bn, ITBP Dehradun and thereafter transferred to 4th Bn as couple case.

vii. The petitioner will not be deployed at any locations above 9000 feet and will be only assigned sedentary duties."

4. Since this is a matter of transfer posting of the petitioner who is working in the ITBP, thus, he is governed and bound by the rules, regulations, and policy decisions of the ITBP, including those with respect to his posting orders, as may be applicable from time to time. The transfer being an exigency of service, this Court is reluctant to interfere with the transfer order of the petitioner once his representation, including on his health grounds, has been considered by the competent authority. This Court can interfere with transfer posting orders only when the same are found to be arbitrary, unreasonable, or being actuated by *malafide*. No such case is made out by the petitioner in the present petition.

5. We, therefore, find no merit in the present petition and the same is, accordingly, dismissed. However, we give liberty to the petitioner



2024:DHC:8316-DB



to make a fresh representation to the respondents, if so advised, on his medical condition, and we have no doubt that the respondents shall consider the same in accordance with law.

NAVIN CHAWLA, J

SHALINDER KAUR, J

OCTOBER 24, 2024/ab/B/VS

Signature Not Verified

Digitally Signed
By: NEELAM
Signing Date: 28.10.2024
17:23:17

W.P.(C) 15016/2024

Page 4 of 4