
(2011) 08 DEL CK 0097
In the Delhi High Court
Case No : Writ Petition (C) 5342 of 2011

COL. (SG) S.S. More

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 02-08-2011

Acts Referred:

Citation : (2011) 08 DEL CK 0097

Hon'ble Judges : Sunil Gaur, J;Pradeep Nandrajog, J

Bench : Division Bench

Advocate : S.R. Kalkal, for the Appellant; Rajeeve Mehra and Asit Tiwari, for the Respondent

Final Decision : Dismissed

Judgement

Pradeep Nandrajog, J.—The Petitioner is a Colonel (SG) in the Indian Army. He was commissioned in the Army Medical Corps as a Non-Technical Officer

2. Though required to work in hospitals established by the Indian Army, Petitioner, being a Non-Technical Officer, renders logistic services.

3. The Petitioner was promoted as Colonel (SG) on 1.2.2010.

4. Petitioner is due to superannuate in August 2013 and as per the policy guidelines framed by the Army Medical Corps pertaining to transfer of Army Medical Corps" Officers, vide para 30, Petitioner is entitled to apply for a last tenure posting before superannuation.

5. As per para 31 of the policy, an applicant, who desires a last tenure posting has to indicate the choice of the station where he desires to be posted.

6. In other words, the choice has to be of a particular city and not of a particular hospital in a city.

7. On 31.1.2011, the Petitioner submitted an application praying that he be posted at Delhi inasmuch he was entitled to a last tenure posting; besides, the

Petitioner highlighted the family problems which he was facing.

8. The letter dated 31.1.2011 reads as under:

Brief reasons for last tenure posting on compassionate ground in respect of NTR-16547M Col SS More, QM CH (NC) C/o 56 APO

Sir,

May I submit the following for your kind consideration:

1. I, NTR-16547M Col Sukhdev Singh More with 27 years of commissioned service, presently posted at Command Hospital (NC) w.e.f. 01 Feb 2010 as QM. I am due for retirement on 31 Aug 2013.

2. On 06 Feb 2007, my son married to a girl out of my caste and the same has become a very serious social problem for me at this stage. As I am a resident of village Islampur, Tehsil Narwana, District Jind (Haryana) and belong to Jat community. This belt in and around of 20 km radius of my village is the same one where maximum honour killings were subjected and excommunication from caste were dictated during 2009 and 2010. The above reason has been haunting me and wife and I am almost at the verge of excommunication indirectly from my village and other relatives. It may kindly be further appreciated that in another two years time I shall be retiring and will have to stay for rest of my life in this hostile social environment.

3. Further, my daughter names Miss Gurmeet K has already completed 25 years of age and I am putting my hard efforts of her marriage at the earliest. Due to the social reasons mentioned above it has created a lot of complication for me for her marriage which has become a major hurdle in the way. I am under a tremendous pressure for these reasons and unable to explain further. Honestly, I am a perturbed father with an only and only wish left to see that No. harm come to my son and daughter-in-law and my daughter get married. I have tried to visit my home place/my Son during leave from this loc (Udhampur) but it will be appreciated it has not helped by cause. I have to be very closed to my native place/my son to overcome/solve this problem. I have to repeatedly meet my relatives to assuage their feelings in order to survive with my kith and kin for the rest of my life.

4. As I am going to retire on 31 Aug 2013, I cannot settle down at my native place or around it. I am planning to settle down at Gurgaon which will help me to ease out my problem.

5. In view of the above facts, may I request your kindness to give me a last tenure of my posting to Delhi on extreme compassionate ground so that I as a head of the family can settle down my daughter as well as my family.

With an expectation of justice at this need of hour.

9. Relevant would it be to note that the Petitioner was working at the Command

Hospital (NC) at Udhampur and desired the last tenure posting to be in the city of Delhi.

10. On 16.5.2011, the Petitioner was informed that his request was accepted and he was posted to the Field Hospital, Delhi Cantonment.

11. The Petitioner has filed the instant petition praying that his transfer to the Field Hospital at Delhi Cantonment be quashed and mandamus be issued to the Respondents to transfer him at the Base Hospital, Delhi Cantonment.

12. We may note that the work at Base Hospital at Delhi Cantonment is much more than the work to be performed at the Field Hospital, Delhi Cantonment.

13. The Petitioner has questioned Respondent No. 3's posting as Colonel (SG) at the Base Hospital, Delhi Cantonment alleging the same to be mala-fide. The mala-fide alleged is that Respondent No. 3 never sought a transfer to Delhi and in spite thereof has been transferred to Delhi. Petitioner alleges that the reason thereof is to deprive the Petitioner a chance to serve at the Base Hospital, Delhi Cantonment.

14. We see No. mala-fides in transferring Respondent No. 3 to Delhi, which transfer we find is a routine transfer.

15. We did not understand as to on what ground the Petitioner can plead discrimination; when he simply sought a transfer to Delhi; indeed this was the only right which he had. He could not direct that upon being transferred to Delhi he should be posted at a particular hospital.

16. In spite of the Petitioner not having any right to question his being made to work at the Field Hospital, Delhi Cantonment and Respondent No. 3 being required to work at the Base Hospital, Delhi Cantonment, to satisfy that everything was extremely fair, we question learned Counsel for the Respondents as to why have they transferred Respondent No. 3 to the Base Hospital, Delhi Cantonment and the Petitioner to the Field Hospital, Delhi Cantonment.

17. Probably, to work at the Base Hospital is considered prestigious and at the Field Hospital it is considered a less prestigious work.

18. The Respondents informed that the reason why Petitioner was given duties at the Field Hospital is that he stated in his application dated 31.1.2011 that he intends to settle in Gurgaon, and that because of the inter-caste marriage of his son, the villagers were on the verge of excommunicating the family i.e. the relatives in the village; his marriageable age daughter was facing problem due to the inter-caste marriage of his son, and the department thought that if the Petitioner was under such mental stress, it would be better that he is given lighter duties.

19. We see good justification in the reason given by the Respondents.

20. A vague plea has been penned in para 7 of the writ petition by stating that at

the Field Hospital the Petitioner would be under the command of another Colonel (SG) who is junior to him.

21. The Petitioner has given No. particulars of the person concerned and has not stated as to in what manner the person would be his junior.

22. Respondents informed that the overall in-charge of a hospital is a Colonel level officer in the medical field. The person at the Field Hospital is Colonel Jaswinder Singh who was promoted as Colonel in the year 2007.

23. We have noted herein above that the Petitioner was promoted as a Colonel (SG), as pleaded by the Petitioner on 1.2.2010. It is apparent that in the rank of Colonel he would be junior in seniority to Colonel Jaswinder Singh.

24. We reiterate that the only right which the Petitioner had under the transfer policy was to be granted a last tenure posting at a station of his choice. The Petitioner requested to be posted at Delhi in the last tenure posting of his career. The request has been accepted. The Petitioner cannot ask for more.

25. The writ petition is dismissed but we refrain from imposing any costs.