

(2020) 03 J&K CK 0033

In the Jammu And Kashmir High Court

Case No : Writ Petition (C) No. 897 Of 2020, Civil Miscellaneous No. 2169 Of 2020, Cav No. 1321 Of 2020

Hafiz Ul Rehman

APPELLANT

Vs

Union Territory Of J&K And Others

RESPONDENT

Date of Decision : 18-03-2020

Acts Referred:

Citation : (2020) 03 J&K CK 0033

Hon'ble Judges : Sanjeev Kumar, J

Bench : Single Bench

Advocate : F.S Butt, Arshad Majid Malik

Final Decision : Disposed Off

Judgement

Sanjeev Kumar, J

1. The petitioner is aggrieved of and has challenged Government Order No. 19-JK (Tr) of 2020 dated 12.03.2020, whereby he has been transferred from Regional Transport Office, Jammu to the Office of Assistant Regional Transport Officer, Kishtwar. The impugned transfer has been challenged primarily on medical grounds. It is submitted that the petitioner suffers from a disease known as Ankylosing Spondylitis (SSA) Cervical Radiculopathy, and therefore, requires treatment and regular follow up with the Rheumatologist throughout his life. He relies upon the opinion of the Standing Medical Board of Government Medical College, Jammu dated 08.02.2019.

2. It is contended by the petitioner that in the year 2019 also the petitioner was sought to be transferred from the Office of Assistant Regional Transport Officer, Samba to the Office of Assistant Regional Transport Officer, Poonch, vide Order No. 20-TC of 2019 dated 28.01.2019. He approached this Court by way of SWP No. 388/2019, and this Court, while issuing notice to the respondents, directed the respondent No. 1 to consider and decide the representation of the petitioner on health grounds and communicate the decision so passed on the said

representation to the Court on the next date of hearing.

3. The petitioner claims that, pursuant to the aforesaid interim direction, the case of the petitioner was considered by the respondent No. 1 in the light of opinion of Standing Medical Board GMC, Jammu (supra) and the order of transfer was modified and he was posted in the Office of the Regional Transport Officer, Jammu vide order dated dated 14.03.2019.

4. Learned counsel for the petitioner submits that the position has not changed in any manner and he continues to suffer from the same lifelong disease as indicated in the certificate of the Standing Medical Board, but respondent No. 1, without taking note of his health conditions and the earlier consideration accorded on the similar grounds has now transferred the petitioner to the Office of Assistant Regional Officer, Kishtwar, which, again is far off hilly place and where it is not possible for the petitioner to perform his duties without risking his life.

5. It is the further contention of learned counsel for the petitioner that the medical facilities including the availability of the Rheumatologist are not available in the District Hospital, Kishtwar.

6. From perusal of the documents, which petitioner has placed on record, it appears that at one point of time, the respondent No. 2 had taken up the matter with the Principal, Government Medical College, Jammu, for ascertaining as to whether the facilities for the treatment required by the petitioner were available in the District Hospitals of the State or not. But without waiting for the opinion of the Principal, the impugned order has been passed.

7. The petition has been opposed by Mr. A.M Malik, learned Dy. AG appearing for the respondents, on the ground that the petitioner is a Junior Assistant and can be transferred anywhere in the State. It is submitted that the petitioner has been serving only in Jammu, Samba and Udhampur Districts and he has never performed his duties anywhere else. It is further submitted by Mr. Malik, learned Dy. AG that the petitioner belongs to District, Kishtwar, therefore, it would be easy for him to perform his duties in the Office of Assistant Regional Transport Officer, Kishtwar.

8. Having heard learned counsel for the parties and perused the record, I am of the view that the grievance projected by the petitioner deserves to be considered by respondent No. 1, in the light of medical opinion rendered by the medical Board and also taking note of the fact that in a similar set of circumstances and identical grounds, the earlier transfer order of the petitioner from the Office of Assistant Regional Transfer Officer, Samba to the Office of Assistant Regional Transfer Officer, Poonch was modified and he was posted in Jammu. The respondent No. 1 shall do well to get the opinion of the Principal, Government Medical College, Jammu with regard to the availability of requisite medical facilities in the District Hospital, Kishtwar before taking final decision in the matter. If respondent No. 1 finds that the facilities for the treatment of the

disease, which, the petitioner is suffering from are well available in District Hospital, Kishtwar, an appropriate decision in the matter shall be taken. Let the matter be considered as above, within a period of two weeks from the date a certified copy of this order is made available to respondent No. 1. Till the matter is considered by the respondent No. 1 and appropriate decision taken, status-quo with the regard to the petitioner shall be maintained.

9. The writ petition is, accordingly, disposed of.