
(2012) 01 DEL CK 0594

In the Delhi High Court

Case No : Writ Petition (C) No. 532 of 2012 and CM No. 1133 of 2012

Hav Abhey Singh

APPELLANT

Vs

UOI and Others

RESPONDENT

Date of Decision : 25-01-2012

Acts Referred:

Citation : (2012) 01 DEL CK 0594

Hon'ble Judges : J.R. Midha, J;Anil Kumar, J

Bench : Division Bench

Advocate : Santosh Kumar, for the Appellant; Himanshu Bajaj, for the Respondent

Judgement

Anil Kumar, J.

W.P. (C) No. 532/2012

1. Issue show cause notice to the respondents as to why rule nisi be not issued. Mr. Himanshu Bajaj, Advocate accepts notice and seeks two weeks time to file reply to show cause notice. Reply to show cause notice be filed within two weeks. Rejoinder, if any, be filed by three days before the next date of hearing.

2. List on 29th February, 2012.

CM No. 1133/2012

3. Learned counsel for the petitioner/applicant states that the name of the applicant in the application has been shown as Havaladar/CLK Siyaram on account of inadvertent typographical error though the applicant is Havaladar Abhey Singh as the affidavit in support of the application is filed in the name of Hawaldar Abhay Singh.

4. Issue notice to the respondents. Mr. Himanshu Bajaj, Advocate accepts notice and seeks two weeks time to file reply to the application. Reply to the application be filed within two weeks. Rejoinder, if any, be filed by three days before the next

date of hearing.

5. The plea of the petitioner is that his father is suffering from metastatic Ca prostate related to obstructive uropathy with CKD 5 and has to undergo hemodialysis frequently. The father of the petitioner is also suffering from cancer and is undergoing treatment at Army Hospital (R&R).

6. The petitioner/applicant has contended that he had made a representation that he should not be transferred to a place where the medical facilities for treatment of cancer and kidneys related problems for his father are not available. According to him, the place of his transfer, Leh does not have medical facilities for treatment of his father.

7. It has also been contended that the representation was made by the petitioner to the respondents against his transfer to Leh emphasizing the problems and he had sought that his transfer be postponed at least for six months.

8. The representation has been disposed of by an order dated 9th January, 2012 without adverting to any of the issues raised by the petitioner and the representation has been rejected mechanically without application of mind. It is also stated that the transfer policy also contemplates consideration of compassionate factors and circumstances which have not been considered.

9. The applicant, therefore, contends that he has a good prima facie case that he should not be transferred. It is also contended that in the circumstances, inconvenience caused to the petitioner shall be much more in case he is transferred to Leh and, therefore, balance of convenience is in favor of the petitioner. If the petitioner is transferred to Leh where no medical facilities are available for the treatment of his father who is suffering from cancer and there is no other family member to look after his father, he may suffer irreparable loss. It is also contended that on account of lack of medical facilities, if his father's condition deteriorates, the petitioner shall suffer immense loss and injury. Considering the facts and circumstances of this case, the petitioner has been able to make out a good prima facie case for grant of interim relief.

10. Consequently the transfer of the petitioner to 13, Kumaon at Leh (Jammu and Kashmir) is stayed till the next date of hearing and the parties are directed to maintain status quo in respect of the posting of the petitioner till the next date of hearing.

11. List on 29th February, 2012.

Dasti.