

(2007) 07 DEL CK 0223

In the Delhi High Court

Case No : Writ Petition (C) 4581 of 2007

Head Const/Ro C.V. Mani Kuttam

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 25-07-2007

Acts Referred:

Citation : (2007) 07 DEL CK 0223

Hon'ble Judges : T.S. Thakur, J;S.N. Aggarwal, J

Bench : Division Bench

Advocate : Suman Doval, for the Appellant; Jyoti Singh and S.S. Pandey, Dy. JAG, for the Respondent

Final Decision : Disposed Off

Judgement

T.S. Thakur, J.—The petitioner is serving as Head Constable in the Indo Tibet Border Police. He was posted in Delhi since the year 2002. By an order/signal dated 29th August, 2005, he was transferred to 20 Battalion in North East Sector. The petitioner appears to have made a representation for deferment of his transfer from Delhi on the ground of his failing health. This request was considered and allowed by the authorities and his posting to North East sector deferred for a period of one year. A copy of the message to that effect has been produced by the petitioner as Annexure P-4 to the petition. Upon expiry of the period of one year, the petitioner was once again asked to report to 20 Battalion North East Sector against which he filed a representation, Annexure P-5, seeking deferment of his posting for a further period of 7 months i.e. up to December, 2007. The representation pointed out that the petitioner was a patient of Liver Cirrhosis and Hypertension for which he has to be under the continuous observation of the doctors in Delhi. The representation also indicated that keeping in view his medical condition and domestic problems, he was seeking voluntary retirement from service. Since the respondents did not appear to have viewed the request of further deferment favorably, the petitioner filed the present petition for a writ of certiorari for quashing the order dated 12th June,

2007 by which the further request for deferment was declined.

2. When the petition initially came up before the Division Bench of this Court comprising Pardeep Nandrajog and P.K. Bhasin, JJ on 18th June, 2007, the Court noticed the submission made on behalf of the petitioner that he was seeking voluntary retirement from service on completion of 20 years of service, which would take place in the month of December, 2007 and stayed the transfer of the petitioner to the North East Sector. On 13th July, 2007, when the matter came up again, Ms. Jyoti Singh, counsel for the respondent pointed out that although a statement regarding the proposed voluntary retirement was made by the petitioner, no formal request seeking voluntary retirement was received from the petitioner. Learned Counsel for the petitioner had, in that view, taken time to make a formal request to the competent authority for voluntary retirement from service of the Indo Tibet Border Police with effect from December, 2007 upon completion of 20 years of qualifying service. He has today handed over to Ms. Jyoti Singh a written request addressed to the Director General, Indo Tibet Border Police, seeking voluntary retirement from service of Indo Tibet Border Police upon completion of 20 years of service in December, 2007. He submits that respondents could be directed to process the said request and pending final order on the same by the competent authority, the petitioner's posting to the North East sector could be deferred.

3. Ms. Jyoti Singh, counsel appearing for the respondent submits on instructions that the respondents would have no difficulty in considering the request for voluntary retirement from service on account of medical condition of the petitioner as also the domestic problems, which the petitioner claims to be having and that an appropriate order on the said would be passed by the authorities in accordance with the Rules on the subject. She further submits that in light of the formal request now received from the petitioner, the petition can be disposed of with the direction that the petitioner could continue in Delhi till December, 2007 by which time his application for voluntary retirement would be processed and a final order on the same could be passed.

4. In the circumstances Therefore and keeping in view the submissions made at the bar as also the request for voluntary retirement from service made by the petitioner, we see no reason to decline the deferment of posting of the petitioner to North East sector till December, 2007 by which time orders on his request for voluntary retirement would be passed by the competent authority. We accordingly dispose of this petition with a direction to the respondents to process the request of the petitioner for voluntary retirement and to continue the petitioner at his present place of posting till December, 2007 by which time he completes 20 years of service and by which time, the competent authority would be passing appropriate orders on his request for voluntary retirement.

5. No costs.