

(2021) 09 DEL CK 0277

In the Delhi High Court

Case No : Civil Writ Petition No. 10616 Of 2021, Civil Miscellaneous Application No. 32737 Of 2021

Jai Pal Singh Mothsara

APPELLANT

Vs

Union Of India And Ors

RESPONDENT

Date of Decision : 21-09-2021

Acts Referred:

Citation : (2021) 09 DEL CK 0277

Hon'ble Judges : Manmohan, J;Navin Chawla, J

Bench : Division Bench

Advocate : Praveen Kumar, Avichal Tomar, Anurag Ahluwalia

Judgement

Manmohan, J

1. Present writ petition has been filed seeking directions to the Respondents to stay the posting/transfer of the Petitioner to 505 SU, Lucknow till the discharge application of the Petitioner dated 31st August, 2021 is under process and pending with the Respondents.

2. Learned counsel for the Petitioner states that the petitioner is a serving Junior Warrant officer of Indian Air Force presently posted at Command Hospital Air Force Bangalore since 01st May, 2018 as a Blood Transfusion Technician. He states that the petitioner is suffering with multiple disabilities i.e Chronic Kidney Disease Stage-3, Incompletely Ascended Malrotated Left Kidney, Osteo Arthritis Ankle Bilateral, Hypothyroidism, Dyslipidemia and Obesity. He states that since the petitioner is in Low Medical Category A4G4 (P) since November 2019, the Petitioner is unfit to perform Military duties i.e PT/Parade/Games, Night duty and security duties.

3. Moreover, he points out that the Petitioner's only son who is in 12th standard is also 100% disabled due to cortical Blindness and also suffers from Diabetics Mellitus Type -II and Hypothyroidism.

4. He states that the petitioner has put in 36 years of service and left with only 2 years and 10 months service for superannuation. He contends that the petitioner requested the respondents for extension of his posting tenure on differently abled child ground vide his applications dated 03rd May, 2021, 12th May, 2021 and 04th June, 2021 but the respondents without properly examining the facts rejected his request without citing any reason whereas the respondents have conceded the request of four other Air Warriors of his unit on the same ground.
5. He further states that respondent no.5 has issued a posting order dated 17th August, 2021 to 505 SU AF Memaura a remote unit on the outskirts of Lucknow city and has to report to the new place of posting on 11th October, 2021.
6. Issue notice. Mr. Anurag Ahluwalia accepts notice on behalf of respondents.
7. He admits that the present case is a 'harsh case on facts'. He states that officials of the respondents shall process the petitioner's application for discharge as expeditiously as possible.
8. Keeping in view the aforesaid, this Court directs the concerned officer in the Indian Air Force to process the petitioner's discharge application dated 31st August 2021 as expeditiously as possible, but not later than eight weeks.
9. Till the petitioner's discharge application is decided, this Court directs that the impugned posting/transfer order dated 17th August, 2021 (Annexure P-5) shall not be given effect to and shall remain stayed. With the aforesaid direction the present writ petition alongwith application stands disposed of. However, list the present writ petition for compliance on 28th December, 2021.
10. The order be uploaded on the website forthwith. Copy of the order be also forwarded to the learned counsel through e-mail.