
(2012) 09 DEL CK 0106

In the Delhi High Court

Case No : Writ Petition (C) No. 5378 of 2012

Jai Singh

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 19-09-2012

Acts Referred:

Citation : (2012) 09 DEL CK 0106

Hon'ble Judges : Pradeep Nandrajog, J; Manmohan Singh, J

Bench : Division Bench

Advocate : Ankur Chhibber, for the Appellant; Ravinder Agarwal with Mr. Amit Yadav, for the Respondent

Judgement

Pradeep Nandrajog, J.—The writ petition had come up for preliminary hearing on August 30, 2012 and since then we have adjourned the matter on as many as four occasions, requiring the respondents to, sympathetically and with practicality, consider the writ petition as a representation to the IG (Personnel). Regretfully we are informed that the IG (Personnel) is not preparing to relook into the matter. He takes the stand that if he does so, it would bring indiscipline on account of the fact that when the IG (Personnel) had directed the revocation of the transfer order passed in March, 2012 under which the petitioner was transferred from the 73rd Bn. at Srinagar to the 139th Bn. at Chattisgarh, the petitioner suppressed the fact that he had already been relieved from the 73rd Bn. at Srinagar. Relevant facts to be noted by us would be that having successfully cleared the selection process for being recruited as a Constable in a Central Paramilitary Force and assigned to CRPF, after completion of training, the petitioner joined the 134th Bn., CRPF in April, 2003 at Manipur. Being a duty battalion, the petitioner could not take his family with him. The battalion remained at Manipur till April, 2005 when it was moved to Amritsar. Here also, the petitioner could not bring his family to reside with him for the previous reason.

2. Remaining in Amritsar till the year 2007, the petitioner applied for being

considered to be appointed as a Sub-Inspector through Limited Department Competitive Examination 2007. Successfully clearing the same, he was appointed as a Sub-Inspector on September 19, 2007 and on November 08, 2007, was posted to the 40th Bn., CRPF stationed at Anantnag, where once again the petitioner could not bring his family.

3. On November 02, 2010, the petitioner was posted in the security of the Prime Minister with the Special Protection Group (SPG). Here again, the petitioner could not reside with his family inasmuch as it was not permissible to do so. On February 22, 2011, the petitioner was promoted to the post of Inspector and posted to 73rd Bn., CRPF stationed at Srinagar. Here again, the petitioner could not reside with his family.

4. In March, 2012, the petitioner was transferred from 73rd Bn. stationed at Srinagar to the 139th Bn. stationed at Chattisgarh; an insurgency infested area.

5. Since April, 2003 till March, 2012, not once had the petitioner been posted at a place where he could reside with his family. He desired that his wife and children reside with him so that he could look after the educational needs of his children.

6. Relieved from 73rd Bn. on April 24, 2012 and sanctioned 30 days earned leave and 15 days transfer time i.e. 45 days, the petitioner was supposed to join the 139th Bn. at Chattisgarh. But before he was relieved, he made a request to the IG (Personnel) which was submitted through proper channel i.e. Commandant of the 73rd Bn. CRPF. The request was made for posting to a battalion where family accommodation was available and where the petitioner could reside with his wife and children.

7. Forwarding the application of the petitioner and making favourable comment thereon, the Commandant, D.S. Grewal, 73rd Bn., CRPF, on April 12, 2012 recommended the petitioner's request for a sympathetic consideration by the IG (Personnel).

8. While on leave, somewhere in the month of May, 2012, the petitioner was granted an audience by the IG (Personnel) who granted approval to the recommendation of the Commandant of the 73rd Bn. (dated April 12, 2012), directing that the transfer/posting order under which the petitioner was posted to the 139th Bn. at Chattisgarh be recalled and the petitioner be posted with 153rd Bn. at Motihari. We highlight that Motihari is also an insurgency prone area. It is not that the petitioner is feeling shy to work in a hostile area. The only difference is that at Motihari, it is permissible for the force personnel to reside with their family because of availability of family accommodation.

9. The order impugned in the writ petition is dated August 09, 2012 which directs the petitioner to be transferred to the 139th Bn. at Chattisgarh and revokes the order dated May 18, 2012 whereby the IG (Personnel) revoked the earlier order requiring the petitioner to be transferred to the 139th Bn. at Chattisgarh.

10. The stand taken by the IG (Personnel) is that when the petitioner met him, the petitioner had suppressed the fact that he had been relieved from 73rd Bn. and had been posted to the 139th Bn.

11. This stand taken by the IG (Personnel) is not acceptable to us inasmuch as it runs in the teeth of the recommendations dated April 12, 2012 by the 73rd Bn., CRPF, Chattisgarh where it stands categorically recorded that the petitioner has been transferred to the 139th Bn.

12. It is obvious that the ego of the IG (Personnel) is now coming in his way. Having committed an error, he feels that it is below his dignity to remedy the same.

13. To commit an error is to do no wrong but to perpetuate the error is to do a wrong. IG (Personnel) may have committed an error when he passes the order dated August 09, 2012. He did no wrong. But by not correcting himself, he is clearly wrong.

14. We dispose of the writ petition quashing the impugned order dated August 09, 2012. We direct that the petitioner shall remain at Motihari and posted at 153rd Bn. and that posting would be for the normal duration for which the force personnel are posted, subject to exigencies of requirement of the respondents. The petitioner is also entitled to costs for a sum of Rs. 11,000/-.