
(2022) 02 DEL CK 0217

In the Delhi High Court

Case No : Civil Writ Petition No. 3056 Of 2022

Rajeev Kumar

APPELLANT

Vs

Union Of India & Ors

RESPONDENT

Date of Decision : 23-02-2022

Acts Referred:

Citation : (2022) 02 DEL CK 0217

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

Bench : Division Bench

Advocate : Ankur Chhibber, Himanshu Gautam, Anurag Ahluwalia, Danish Faraz Khan

Final Decision : Dismissed

Judgement

Manmohan, J

C.M.No.8855/2022

Exemption allowed, subject to all just exceptions.

Accordingly, the application stands disposed of.

W.P.(C) No.3056/2022 & C.M.No.8854/2022

1. The petition has been heard by way of video conferencing.
2. Present writ petition has been filed challenging the impugned orders dated 25th January, 2022 and 07th February, 2022 whereby the Petitioner has been transferred from 233(M) Bn, Lucknow to 153 Bn Bijapur Chhattisgarh. Petitioner also seeks directions to the Respondents to allow the Petitioner to complete his normal tenure of three years at 233 (M) Bn Lucknow.
3. On the last date of hearing, learned counsel for the Petitioner had stated that the Petitioner had been posted out of his current place of posting to a hard place of posting in violation of the Standing Order 07/2014 dated 24th November,

2014 which specifically provides for a tenure of three years at a particular unit. He had stated that the Petitioner's current place of posting at Lucknow was his first peace posting after serving for almost seventeen years and within four months of his joining at Lucknow, the Petitioner had been posted out to a Category 'A' location at Bijapur, Chhattisgarh.

4. He had stated that on 02nd June, 2021, the Petitioner was transferred from Imphal, Manipur to 153Bn Bijapur, Chhattisgarh, a very hard field area falling under Category 'A' as specified in Standing Order 07/2014. He had pointed out that the Petitioner had challenged the posting to Bijapur before the Manipur High Court by way of W.P.(C) No.419/2021 and after the Respondents cancelled the Petitioner's posting to Bijapur, the writ petition was dismissed as infructuous.

5. He had also stated that subsequently, the Petitioner was posted to his current place of posting at Lucknow and was promoted to the post of 2IC. He pointed out that in January 2022, the Petitioner came to know that he was being considered for transfer from Lucknow against which the Petitioner had represented to the Inspector General, Central zone and vide order dated 05th January, 2022, the office of the Inspector General had held that as the Petitioner had not completed his tenure of three years at Lucknow, he must not be transferred.

6. The contention of learned counsel for the Petitioner was that the Respondents had passed the same posting order which was challenged before the Manipur High Court and transferred the Petitioner to Bijapur within a period of six months from the date of the disposal of the writ petition preferred by the Petitioner.

7. Per contra, learned counsel for the Respondents, on the last date of hearing, had stated that the Petitioner was deputed at Manipur as a Deputy Commandant and had been transferred to Lucknow as a Deputy Commandant on 08th September, 2021. He had further stated that the Petitioner had been promoted from the rank of Deputy Commandant to the rank of 2IC in December, 2021 and in accordance with the Clause (xiii) of the Standing Order 07/2014, the Petitioner had been posted to Field Area of Category 'A' unit location. He had emphasised that out of twenty-two officers who had been promoted to Category 'A', fifteen officers had been transferred to Category 'A' unit location and out of those fifteen officers, nine officers had been transferred to Category 'A' for the first time.

8. In rejoinder, learned counsel for the petitioner had stated that the Petitioner had always been posted in Category 'A' location and, as a consequence, he was entitled to the benefit of Clause (xi) of the Standing Order 07/2014 and was not liable to be transferred/posted to Field Area of Category 'A' unit location. At that stage, learned counsel for the Respondents had taken time to obtain instructions.

9. Today learned counsel for the Respondents has produced the posting chart of the Petitioner, which shows that he had never been posted in any Category 'A' unit location.

10. Learned counsel for the Petitioner states that the categorization of unit

location has been introduced on 08th June, 2017 and prior to 2017 the Petitioner had been posted in a hard area.

11. However, this Court finds that the Petitioner in the present writ petition only relies upon Standing Order 07/2014 and not upon any prior policy or circular. In fact, Clause (xiii) of the said Standing Order No.07/2014 specifically stipulates that "officer on promotion.....should be first posted to Field Area of Category-"A" unit locations.....".

12. Admittedly, Clause (xi), relied upon by learned counsel for the Petitioner, is not attracted to the present case as the Petitioner has never been posted in a Category 'A' unit location. In fact, a 'misstatement' had been made before this Court on the last date of hearing by the petitioner.

13. In the present case, the Respondents have done nothing more than to follow their rules and policies that they had stipulated in the Standing Order 07/2014.

14. Consequently, the impugned orders are fair, just and reasonable. Accordingly, the present writ petition along with pending application is dismissed.