

WP(C) 2197/2008

BEFORE

THE HON'BLE MR. JUSTICE B.K. SHARMA

Heard Mr. P.K. Medhi, learned counsel for the petitioner as well as Mr. R. Sarma, learned CGSC for the respondents.

The petitioner who is working in the capacity of Deputy Commandant (SMO) in the 46 AR C/O 99 APO in the district of Sonitpur has assailed the legality and validity of the Annexure-3 order dated 23.5.2008 by which he has been transferred to the particular unit in Manipur. According to the petitioner, he having already served in hard station, he cannot be posted to Manipur, which is considered to be a hard station.

According to the respondents, the petitioner is not correct in stating that he had served twice in hard station. In the counter affidavit and in the Misc. Case No. 973/2009, the respondents have indicated the spells in question during which the petitioner had served in different stations. It is the stand of the respondents that the posting of the petitioner for the period from 27.2.2003 to 2.6.2005 and from 27.6.2005 to 15.12.2005 was at moderate stations and thereafter with effect from 16.12.2005 he has been serving at a good station, which is in the district of Sonitpur. It is only the present posting which can be considered as a hard station. Further stand of the respondents is that the transfer is not affected State wise but it is always on unit basis and exigencies of service.

Mr. Sarma, learned CGSC submits that in the present unit there are 45 battalions, out of which 22 are presently deployed in Manipur, because of the counter insurgency operations there and accordingly a good number of units are required to be posted there.

Mr. Medhi, learned counsel for the petitioner on the other hand referring to the affidavit-in-reply filed by the petitioner submits that the petitioner has been discriminated in the matter of transfer and posting. He submits that as per the transfer policy, the petitioner cannot be transferred to another hard station as has been done by the impugned order.

Considering the matter in its entirety and the fact that the there is limited scope of interference in the matter of transfer exercising the power of judicial review under Article 226 of the Constitution of India unless a case is made out of malafide transfer and/or violation of any statutory provisions. Having regard to the limited scope of writ jurisdiction in the matter of transfer of Government officials more particularly, when the petitioner is in Military service, I dispose of this writ petition with the liberty to the petitioner to approach the appropriate authority of the respondents towards redressal of his grievance.

Mr. Medhi, learned counsel for the petitioner has referred to the Annexure-C and D representations dated 25.5.2008 and 1.5.2008 addressed to the Mahanideshalaya Assam Rifles, Directorate General Assam Rifles, (MS Branch), Shillong-11, which have not been disposed of by any speaking order. The said authority may take on record the said representations and dispose of the same in accordance with law by a speaking order as expeditiously as possible, preferably within 15.6.2009.

Interim order passed on 2.6.2008 shall continue till disposal of the representations.

Writ petition stands disposed of.