

(2004) 09 GAU CK 0017

Gauhati High Court

Case No: WP (C) No. 5617 of 2004

Daler Singh

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision: Sept. 1, 2004

Citation: (2005) 104 FLR 1157 : (2005) 1 GLR 111

Hon'ble Judges: Iqbal Ahmed Ansari, J

Bench: Single Bench

Advocate: T.N. Srinivasna, for the Appellant; N.D. Sharma, Addl. Central Govt. Standing Counsel, for the Respondent

Final Decision: Dismissed

Judgement

I.A. Ansari, J.

Heard Mr. T. N. Srinivasna, learned counsel for the petitioner, and Mrs. N. D. Sharma, Addl. Central Govt. Standing Counsel, appearing for the respondents.

2. By order, dated 27.8.2004, passed in this writ petition, it was directed that the matter would be taken up for final disposal at the motion hearing itself.

3. Upon hearing the learned counsel for the parties and on perusal of the materials on record, I am also of the view that this writ petition can be disposed of at the motion stage itself.

4. Briefly stated, the facts, which form the background of the impugned transfer order, dated 30.4.2004, are thus : The petitioner, who is a member of the Border Security Force, is from Azara, Guwahati, and was posted at Guwahati in the year 1997. As a member of 32 Bn. BSF, the petitioner was transferred to Manipur in the year 2001. As the entire Unit of 32 Bn BSF moved to Panjipara (West Bengal), the petitioner was also, as a member of the said Battalion, transferred to, and posted at, Panjipara. On the representation made by the petitioner that his wife was unwell and that he should be posted either with the SHQ BSF, Guwahati or with 128 Bn BSF, which is also located at Guwahati the petitioner was posted at Azara, Guwahati.

Commencing from the year 1997, the petitioner has served under Shillong Frontier for more than 6 years. According to the relevant policy governing the service conditions of the BSF personnel, a member of the BSF cannot serve for more than 6 years in one Frontier. Situated thus, the transfer of the petitioner from Shillong Frontier to some other Frontier of the BSF had become indispensable.

5. In the above, backdrop, the order, dated 01-01-2004, was passed transferring the petitioner from Azara, which falls under Shillong Frontier, to Rajasthan-Gujarat Frontier. Aggrieved by this order, the petitioner made a representation. While the said representation was pending, the petitioner came before this Court with a writ application, which gave rise to WP(C) No. 3720/2004. By order, dated 1.6.2004, this writ petition was disposed of directing the authorities concerned to consider and dispose of the petitioner's representation, dated 17.5.2004, within a period of one month and to maintain status quo until then. The representation was considered and rejected as devoid of merit. A copy of the order disposing of the representation is placed at Annexure-E series at page-33 to the writ petition, which indicates that the petitioner's request made for allowing him to stay at Guwahati was not acceded to on the ground that the petitioner had completed 7 1/2 years of tenure under the Shillong Frontier. The fact that the petitioner has completed more than 6 years of service under the Shillong Frontier is not in dispute. This apart, the order placed at Annexure-F, at page-34, shows that pursuant to the rejection of the petitioner's representation, he has been relieved of his duties from 128 Bn BSF with effect from 30.6.2004 and struck off the strength of the Unit with the direction given to him to proceed to his new place of posting.

6. Though the petitioner has made scanty and vague allegations of mala fide against the authorities concerned in transferring the petitioner, the facts placed before this Court give no indication at all that the transfer of the petitioner, in the present case, is for reasons other than administrative and in the interest of the Border Security Force, which is a para-military force. The petitioner's grievance that he is at the fag end of his service career and his wife is ill cannot over-ride the requirements of his Force, particularly, when the petitioner has already served about three years at Guwahati not long before.

7. Considering, therefore, the matter in its entirety, I am firmly of the view that the petitioner has not been able to make any case for interference by this Court with the impugned order and/or with the rejection of his representation.

8. In the result and for the foregoing reasons, this writ petition fails and same is accordingly dismissed.

9. There shall be no order as to costs.