

A Mumla Bibi Vs. Uoi and ors.

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Court : Delhi

Decided On : Jul-25-2011

Judge : Pradeep Nandrajog; J.R.Midha, Jj.

Appeal No. : W.P.(C) 4612/2011

Appellant : A Mumla Bibi

Respondent : Uoi and ors.

Advocate for Def. : Ms.Barkha Babbar; Mr.Asit Tiwari, Adv.

Advocate for Pet/Ap. : Mr.Mohan Kumar; Mr.Rohit Pratap; Ms.Rashmi Singh; Mr.R.D.Tyagi; Ms.Sangeeta, Adv.

Judgement :

1. The petitioner is a Nursing Officer (Lt.Col.) in the Military Nursing Service of the Indian Army. Put in tabular form, location where petitioner served and the period is as under:-

Sr. Unit From To date Location Div/Area/Comm date and No.

1. Military Dec 85 Feb 86 Jalandher Western Hospital (Punjab) Command

2. Command Feb 86 Feb 88 Bangalore Southern Hospital Command

3. 184 MH Feb 88 Aug 90 Suratgarh Western Command (Raj)
4. Military Aug 90 Nov 92 Wellington Southern Hospital Command
5. Military Nov 92 Nov 95 Bareilly Central Hospital Command
6. Military Nov 95 Aug 98 Avadi Southern Hospital Command
7. 5 Airforce Aug 98 Dec 01 Jorhat Eastern Hospital (Assam) Command
8. Military Dec 01 May 05 Ambala Western Hospital Command
9. 153 May 05 Aug 07 Leh/High Northern General Altitude Command Hospital Field Area
10. Military Aug 07 Till Meerut Central Hospital date Command

2. It is pleaded by the petitioner that in the year 2005- 07, posted at a high altitude i.e. Leh, due to extreme cold weather petitioner developed 'hypomania' and as a result thereof was put in low medical category which required her not to be posted in a high altitude area or an insurgency troubled area.

3. Working at the Military Hospital Meerut, petitioner claims that she has been wrong inasmuch as the impugned order dated 25.5.2011, which we note is a routine transfer posting order pertaining to 54 officers, requires petitioner to report for duty at the Military Hospital Guwhati.

4. Petitioner claims a two-fold equity in her favour. Firstly, being in low medical category due to having developed hypomania and secondly her necessity to look after her bed ridden mother aged 80 years and a young daughter whom petitioner

claims having adopted in the year 2004.

5. As per the petitioner she would attain the age of superannuation on 30.4.2013 and as per the transfer policy would be entitled to a last leg transfer posting at station of her choice in the last year of her service.

6. In other words, petitioner claims that by April 2012 she would be in a position to enforce a right to be posted at a station of her choice and thus urges that it would be useless to make her work in Guwhati for less than 9 months.

7. In the synopsis the petitioner has made a reference to her entitlement to seek pre-mature retirement and in respect whereof we do not find any averments in the writ petition except for a vague reference that upon her seeking pre-mature retirement, in vengeance and vendetta, the impugned order was issued.

8. In the counter affidavit filed it is pleaded that though Guwhati is a counter insurgency operational area, but is pleaded that currently the place is peaceful. Admitting that the petitioner had developed hypomania, it is stated that the petitioner did not develop the same at Leh evidenced by the fact that this was detected when she was serving at Meerut. It is pleaded that nursing officers are given 3 choice stations as per their choice and the petitioner exercised the same when she voluntarily sought to be transferred at CH Bangalore, MH Wellington and MH Avadi. It is pleaded that the petitioner has completed 3 tenures in the Southern Command and the Western Command but only one each in the Eastern, Northern and Central Command and this is the reason why she had to be posted in other Eastern or the Central Command for the reason she was stationed in Meerut under the Northern Command. As regards the date when petitioner would superannuate it is pleaded that the petitioner would superannuate on 30.4.2014 and not 30.4.2013 and thus the argument of the petitioner that after 9 months she would have a right to seek last leg transfer posting is negated. On the issue of petitioner seeking voluntary retirement it is stated that the application being found to be wanting and not containing the requisite information as was required to be

furnished, it is pleaded that the same was returned and never re-submitted by the petitioner.

9. These are rival versions on which the matter needs to be settled between the parties.

10. The plea of mala fide raised by the petitioner is without any basis as we do not find any connection between the transfer order and the request made by the petitioner to be voluntarily discharged from service. As highlighted by us the transfer posting order is issued in routine and pertains to 54 officers. The transfer posting order is not singularly directed against the petitioner. That the petitioner has worked 3 times in the Southern and Western Command and only once in the Eastern, Northern and Central Command is a fact of relevance inasmuch as all officers, who are obliged to serve on all-India basis, must, as far as possible, serve equally in all the regions in India.

11. Whether petitioner became a patient of hypomania while serving at Leh or at Meerut is irrelevant for the reason Guwhati is not a high altitude city and thus it does not matter whether the petitioner suffers from hypomania or the place where she contacted the same. Whether the petitioner serves in Meerut or at Guwhati, with reference to her being a patient of hypomania, would be irrelevant.

12. It is no doubt true that the city of Assam is troubled by insurgency but the city of Guwhati is fairly safe. That apart, the petitioner has to serve at the Military Hospital where residential unit lines are available within the campus itself. The campus and the hospital is properly secured by Army Officers and thus the life and limb of the petitioner is safe. That apart, even if there are some dangers, somebody has to serve at Guwhati. This would be the exigency of service when a person joins a service which has an all-India transfer liability.

13. As regards the issue of voluntary retirement sought by the petitioner, we find that the application submitted by the petitioner was found to be wanting and

deficient. It was returned to the petitioner informing her so. She has not re-submitted the application.

14. Law pertaining to transfer/posting requires minimal interference from the Court and sympathies are no grounds to interfere with the executive decision to transfer a particular employee at a particular place. It is for the executive to manage and run its affairs.

15. We dismiss the writ petition but refrain from imposing any costs.

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