

Suppl. List VC
Sr. No. 03

IN THE HIGH COURT OF JAMMU AND KASHMIR AT  
SRINAGAR

CM No. 1973/2020 in  
WP(C) No. 896/2020  
CM No. 1974/2020

Ramesh Prasad Singh

... Petitioner(s)

Through: - Mr. M. Ashraf Wani,  
Advocate, (On video conference  
from the Court room)  
V/s

Union of India and Ors.

....Respondents(s)

Through: - Mr. T. M. Shamsi, learned Sr.  
AAG (On video conference  
from his office)

**CORAM:**

**Hon'ble Mr Justice Ali Mohammad Magrey, Judge**

**ORDER**  
08.06.2020

**CM No. 1973/2020**

On the set of facts and grounds urged coupled with the submissions made at Bar, the instant application seeking exemption for payment of requisite Court fee and affixing of stamp papers is allowed. Same be paid/filed as and when the normal work of High Court is restored.

CM disposed of.

**WP(C) No. 896/2020, CM No. 1974/2020**

Petitioner while holding the rank of Second-In-Command, performing duties of Commandant of 1011 BSF Arty Regt since 25<sup>th</sup> November, 2016, located at Singhpora, Baramulla, Jammu and Kashmir, has been transferred

from the said regiment (Singhpora District Baramulla) to 134 BN BSF (Assam) vide order dated 05.03.2020.

Mr. Shuja-ul-Haq, learned appearing counsel for the petitioner submits that the petitioner had in terms of the said transfer order to move the new place of posting in the month of April, 2020, but because of spread of Covid-19 and in terms of policy of the Government of India all the officers/officials were prohibited from moving outside their regiments/postings, therefore, petitioner is presently continuing at Singhpora, Baramulla.

The main ground to challenge the impugned transfer order has reference to non-adherence to the policy notified in the shape of GSR-100 dated 15.03.2000. Learned appearing counsel for the petitioner invited the attention of this Court to Rule 10 and 12 of the said Rules, which deals with the terminal postings and posting. Rule 10 and 12 being relevant are extracted as under:-

*“ 10. Terminal posting:-- Members of the Force having good record of service and free from disciplinary/vigilance angle, may be given posting near their home town, two years before attaining the age of superannuation subject to availability of vacancy of the post in such place and suitability for the job as assessed by the competent authority.*

*12. Posting during move of Battalion. A member of force posted to a Battalion which is under move within or out of Frontier shall not be transferred except under rules 10 and 11 and the powers to consider individual cases on medical grounds of the members of the Force or his family as certified by a Medical Board shall rest with the Director General.”*

The purport of the Rules is that the members of the Force having good record of service and free from disciplinary/vigilance angle, are required to be given posting near their home town, two years before attaining the age of superannuation.

Learned counsel appearing for the petitioner submits that the petitioner has to retire on reaching the age of superannuation on 30<sup>th</sup> August, 2022.

Mr. T. M. Shamsi, learned ASGI has vehemently resisted the claim made in the writ petition with reference to petitioner having no ground to challenge the transfer order. Since the petitioner is continuing at present posting for the last three months for the reasons submitted by the petitioner on account of the Pandemic of Covid-19, therefore, the Court is of the considered view to issue notice.

Notice in the main petition as well as in CM, waived by Mr. T. M. Shamsi, learned ASGI on behalf of respondents. He shall file objections within two weeks.

List on 23<sup>rd</sup> June, 2020.

In the meantime, status quo as on date shall be maintained till next date of hearing before the Bench.

Registry to furnish copy of the order to both the appearing counsels through e-mail.

**(Ali Mohammad Magrey)**  
**Judge**

**Srinagar**  
08.06.2020  
*Mohammad Yasin Dar*