

**IN THE HIGH COURT OF MANIPUR
AT IMPHAL**

WP(C) No. 528 of 2020

Anilkumar Singh, aged about 30 years, S/O Amu Singh of Lairen Kabi, P.O. Lamsang Bazar & P.S. Lamsang, Imphal West District, Manipur -Pin: 759146 at present posting at GC, CRPF, Imphal, having ASI/Min No.105044952.

.....Petitioner

-Versus-

1. Union of India represented through its Home Secretary (Ministry of Home Affairs), North Block, Government of India, New Delhi – 110001.
2. The Director General of Police, CRPF CGO Complex, Lodhi Road, New Delhi- 110 003.
3. The IGP, M&N Sector, CRPF, P.O. Imphal, P.S. Patsoi, District- Imphal West, Manipur-795 113
4. The DIGP(Adm), M&N Sector, CRPF, P.O. Imphal, P.S. Patsoi, District- Imphal West, Manipur-795 113

..... Respondents.

**BEFORE
HON'BLE THE ACTING CHIEF JUSTICE MR. M.V. MURALIDARAN**

For the Petitioners :: Mr. K. Roshan, Advocate

For the Respondents :: Mr. S. Vijayanand Sharma,
Sr. PCCG

Date of Hearing and
reserving Judgment & Order :: 01.02.2023.

Date of Judgment & Order :: **24.02.2023**

JUDGMENT AND ORDER
(CAV)

This writ petition has been filed by the petitioner to quash the Signal dated 20.4.2020, 14.7.2020, 28.7.2020 and the impugned order dated 24.9.2020, as they are issued in violation of the Standing Order No.03/2016 and directing to complete the petitioner's tenure in GC, CRPF, Imphal under the North East Zone.

2. Heard Mr. K. Roshan, learned counsel for the petitioner and Mr. S. Vijayanand Sharma, learned Sr. PCCG for the respondents.

3. Assailing the impugned transfer order, Mr. K. Roshan, the learned counsel for the petitioner submitted that the petitioner was initially appointed in the CRPF with effect from 27.9.2010 as Head Constable and was posted in GC, Bhubaneswar till 2013 and from there, he was transferred to 32 Bn. Subsequently, he was transferred and posted at GC, Imphal from 22.8.2015. In the year 2019, while he was in GC, Imphal and while he was working at GC, Imphal, the petitioner was promoted to the post of Assistant Sub-Inspector on 24.1.2019. While the petitioner serving as ASI, the respondents issued Signal dated 20.4.2020 effecting summer chain transfer of 14

ASI, including the petitioner thereby transferring him to 87 Bn at Jiribam.

4. The learned counsel further submitted that since the petitioner has not completed the normal tenure of 3 years as ASI in GC, Imphal and since his mother suffering from Psychosis NOS and also his wife gave birth to a girl child, a representation was submitted by him on 30.7.2019. By the order dated 14.7.2020, the representation of the petitioner was rejected and directed the petitioner to report at 87 Bn by 15.7.2020 positively and the respondents have also issued relieving order dated 28.7.2020, thereby relieving him from GC, Imphal with effect from 31.7.2020 and to report at 87 Bn.

5. Mr. K. Roshan, the learned counsel for the petitioner further submitted that the case of petitioner is covered by Paras 7(A)(a) and 7(C)(c) of the Standing Order. Aggrieved by the order dated 28.7.2020, the petitioner has filed W.P.(C) No.461 of 2020 and this Court, in its order dated 20.8.2020, disposed of the said writ petition giving liberty to submit a fresh representation to the authorities concerned within a period of 10 days and on receipt of the representation, the authorities were directed to consider such representation. He would submit that pursuant to the order dated 20.8.2020, the petitioner submitted a

representation on 21.8.2020 seeking to cancel the transfer and posting Signals of the petitioner directing him to report at 87 Bn in consideration of the stipulations laid down in the Standing Order No.03/2016. However, by the impugned order dated 24.09.2020, the said representation was rejected by the respondent authority arbitrarily. Challenging the same, the present writ petition has been filed. Thus, a prayer has been made to set aside the impugned orders and allow the petitioner to serve at GC, Imphal.

6. Per contra, Mr. S. Vijayanand Sharma, the Sr.PCCG for the respondents submitted that as per the conditions stipulated in his appointment letter, it was clearly highlighted that the appointment carries the liability to serve in any part of India or outside country. He submits that the transfer in CRPF is a policy matter and orders are being issued by transferring authorities taking into consideration of all aspects like vacancy/exigencies of services in various offices/tenure of individuals etc.

7. The learned Sr. PCCG further submitted that since the petitioner had completed more than his normal tenure of 3 years at GC, Imphal with effect from 23.8.2015 to 31.5.2020, nomination of the petitioner along with other similar incumbents

Within Sector Transfer-2020 was forwarded to IGP M7N Sector. Thereafter, the IGP, M&N Sector had issued Summer Chain Transfer-2020, vide Signal dated 20.4.2020, wherein the petitioner was transferred from GC Imphal to 87 Bn, CRPF. When the petitioner submitted a representation dated 2.7.2020 for deferment of his transfer for one year, the same was rejected vide order dated 14.7.2020. Aggrieved by the transfer to 87 Bn, the petitioner has filed W.P.(C) No.461 of 2020 and pursuant to the order of this Court in W.P.(C) No.461 of 2020, the IGP M&N examined the case of the petitioner and, finally, rejected the representation of the petitioner as devoid of merits by issuing a speaking order dated 24.9.2020.

8. The learned Sr. PCCG urged that the contention of the petitioner that the period prior to promotion to the post of ASI (Min) at GC, Imphal cannot be counted while computing the tenure is purely baseless and that the case of the petitioner is not covered under Para 7(C)(c) of the Standing Order. Similarly Para 7(A)(a) referred by the petitioner clearly states transfer of officials who have completed/completing prescribed tenure in soft area and hard area. Since the petitioner has already completed more than 4 years at GC, Imphal against the prescribed tenure of 3 years, he was transferred to 87 Bn. Therefore, there is no merit

in the claim made by the petitioner. Thus, a prayer has been made to dismiss the writ petition.

9. This Court considered the rival submissions and also perused the materials available on record.

10. The petitioner challenged the impugned transfer order alleging that the same is in violation of Para 7(A)(a) and Para 7(C)(c) of the Standing Order No.03/2016. Paras 7(A)(a) and Para 7(C)(c) of the Standing Order are quoted hereunder for ready reference:

“7. TYPES OF TRANSFER.

A) Summer Chain Transfer.

(a) Summer Chain Transfer will cover the cases of the following categories of officers/officials:-

- (i) Transfer cases of officers/officials who have completed/ completing prescribed tenure in a particular Zone/Sector or station/area/region/NCR as on prescribed cut of date.*
- (ii) Transfer cases of officers/officials who have completed/ completing prescribed tenure in soft areas and hard areas.*
- (iii) Transfer cases of officers / officials who have not completed*

/completing prescribed tenure in soft areas and hard areas as on prescribed cut-off date yet requested for transfer on various grounds as defined in transfer policy.

- (iv) *Other transfer cases as per para 7(C)(a) to (g)."*

"C. Other Transfers.

....

c) The transfer of an officer/official on extreme medical ground will be considered on administrative feasibility and other provisions of the transfer policy. Transfer on extreme medical grounds will be considered on merit only if the official or his immediate family members are suffering from any of the following diseases.

- 1. Cancer*
- 2. Paralytic Stroke*
- 3. Renal failure*
- 4. Coronary artery disease/Thalassemia*
- 5. Parkinson's disease*
- 6. Motor-neuron disease.*

....."

11. The petitioner was initially appointed as Head Constable in CRPF with effect from 27.9.2010 and was posted at GC, BBSR till 2013. From there, he was transferred to 32 Bn.

While working at 32 Bn. from 2.10.2013, the petitioner was transferred to GC, Imphal on 22.8.2015. While the petitioner was working as HC in GC, Imphal, he was promoted to the post of ASI (Min) vide order dated 24.1.2019. While working as such, the petitioner was transferred to 87 Bn at Jiribam vide order dated 20.4.2020. On a perusal of the order dated 20.4.2020, it is seen that the transfer was made as per the recommendation of the Departmental Transfer Committee and approved by the competent authority.

12. As could be seen from the records, it is clear that the petitioner completed more than 4 years at GC Imphal with effect from 23.8.2015. As rightly argued by learned Standing Counsel for the respondents, Summer Chain Transfer application of the officials are considered by the Department whose normal tenure are completed in a particular place/ unit/ office/ sector/zone etc. and not with reference to the rank which he is holding. Thus, the competent authority was right in counting the tenure period of the petitioner from 23.8.2015. In view of the above, the plea of the petitioner that the period prior to promotion to the post of ASI (Min) cannot be counted while computing the tenure is highly baseless. In this regard, it is pertinent to mention that as per Para 7(b)(a)(ii), an official on release on promotion be permitted to continue in the same office, if he has not completed

the tenure. In such cases, the tenure in hard/soft areas will be continued. Here, in the case on hand, since the petitioner had already completed more than 4 years in GC Imphal against the prescribed period of 3 years, the respondent authority was right in transferring the petitioner from GC Imphal to 87 Bn CRPF.

13. Coming to the medical ground on which the petitioner sought to set aside impugned transfer order is concerned, it is to be pointed out that earlier on 2.7.2020 the petitioner requested for deferment of his posting for one year on the ground that his wife was taking care of his little baby completing 11 months along with his mother who was suffering from Psychosis NOS at his parental home and need his presence for proper care of his baby as well as medical treatment of his mother. After examining the representation, the IGP M&N Sector rejected the case of the petitioner. Now after three years, the petitioner cannot seek for the same ground to set aside the impugned transfer order. In view of the above, the retention sought for by the petitioner on medical ground at GC Imphal is also baseless. Only after considering the case of the petitioner and in the light of the order dated 20.8.2020 passed in W.P.(C) No.461 of 2020, the impugned rejection order came to be passed by the respondent authority and, this Court, finds any infirmity in it.

14. At this juncture, it is to be pointed out that the petitioner's initial appointment as HC in GC Bhubaneswar comes under Odisha Sector. He was transferred from GC Bhubaneswar to 32 Bn, Loktak, which is his home State. Since the petitioner was appointed under Odisha Sector, Para 14 of the Standing Order No.3/2016 is not covered the case of the petitioner, as GC Imphal is under Manipur and Nagaland Sector and the petitioner has been transferred in SCT-2020 of Manipur and Nagaland Sector.

15. It is reiterated that as per the transfer policy envisaged in Standing Order, normal tenure at GC Imphal is 3 years and the petitioner had already completed more than his normal tenure at GC Imphal. The transfer order of the petitioner from GC Imphal to 87 Bn issued in SCT-2020. Therefore, the orders dated 20.4.2020 and 24.9.2020 are proper and they have been issued in accordance with the Standing Order.

16. At this juncture, by drawing this Court's attention to Para 15 of the Standing Order, the learned Standing Counsel for the respondents submitted that Para 15 clearly mentions that a Government Servant holding a transferable post has no vested right to remain posted at one place or the other and also further

reiterated that no Government servant or employees has legal right for being posted at any particular place.

17. Transfer of an employee is an administrative prerogative power vested with the competent authority. It is for the competent authority to decide how and where to post the personnel for effective administration. The petitioner, being an employee of an uniformed service, has to abide by the administrative orders, more specifically, of transfers.

18. Intervention in administrative transfers will not only cause inconvenience to the administration, but also amounts to preventing opportunity of other employees to come over to their native places. Administrative transfer policies are implemented in the interest of the Department, more so, in the uniformed services, in order to maintain discipline and good conduct. Periodical transfers of uniformed personnel are highly essential.

19. It is not for the Courts to interfere or exercise the power of judicial review in the matter of transfers. Only on exceptional circumstances i.e. to say, in the event of violation of any statutory rules, the power of judicial review can be exercised and not otherwise. Violation of certain guidelines/instructions given in the form of Circulars or Orders, will not confer any legal right on the employees. In other words, the Circulars and Orders

of the Government with regard to the guidelines issued for implementing transfers will not confer any right on the employees. Certain concessions are provided in order to make the employees more accommodative and for effective functioning of the administration. Thus, it is for the competent authorities to consider all these aspects in respect of the personal grievances of the employees, while effecting transfers. Such being the legal principles on transfers, this Court is of the undoubted opinion that the administrative transfers cannot be challenged by way of writ petition and this Court has to be conscious, while exercising the judicial review against the orders of administrative transfers.

20. A Government servant holding a transferable post, especially, a person serving in a disciplined service, has no vested right to remain posted at one place or the other and he is liable to be transferred from one place to the other. Transfer orders issued by the competent authority do not violate any of his legal right. Even if a transfer order is passed in violation of executive instructions or orders, the Courts ordinarily should not interfere with the order, instead, the affected party should approach the higher authorities of the Department. If Courts continue to interfere with day-to-day transfer orders issued by the Government and its sub-ordinate authorities, there will be a

complete chaos in the administration, which would not be conducive to public interest. The Courts need not overlook these aspects while interfering with the orders of transfers.

21. The Hon'ble Supreme Court in the case of *S.C. Saxena v. Union of India and Others*, (2006) 9 SCC 583, has observed that Government servant in the matter of transfer should first report/join for work where he is transferred.

22. It is settled that the Courts should not interfere with a transfer order which are made in public interest and for administrative reasons unless the transfer orders are made in violation of any mandatory statutory rules or on the ground of mala fide. At the cost of repetition, it is pertinent to mention that a Government servant holding a transferable post has no vested right to remain posted at one place or other, he is liable to be transferred from one place to another.

23. The scope of interference by this Court in regard to members of Armed Forces is far more limited and narrow. Considering the facts and circumstances of the case, this Court is of the view that the impugned transfer of the petitioner was made after considering the Standing Order No.03/2016 as also other material documents. Therefore, there is no merit in the writ petition and, accordingly, the same is liable to be dismissed.

24. In the result, the writ petition is dismissed. There will be no order as to costs.

ACTING CHIEF JUSTICE

FR/NFR
Sushil