

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 3RD DAY OF JULY 2015/12TH ASHADHA, 1937

WP(C).No. 1027 of 2015 (C)

PETITIONER(S):

**VIJAYA KUMAR A., AGED 35 YEARS
FORCE 971220642, S/O. LATE ANNAMALI,
ASI (MINISTERIAL)CENTRAL RESERVE POLICE FORCE (CRPF)
COMPOSITE HOSPITAL, TRIVANDRUM,
RESIDING AT QUARTER NO. 11 ATTACHED TO GROUP CENTRE CRPF
PALLIPURAM, TRIVANDRUM.**

BY ADV. SRI.U.BALAGANGADHARAN

RESPONDENT(S):

- 1. UNION OF INDIA, REP.BY ITS SECRETARY
MINISTRY OF HOME AFFAIRS, SOUTH BLOCK
NEW DELHI - 110 001.**
- 2. THE DIRECTORATE GENERAL
CENTRAL RESERVE POLICE FORCE, BLOCK NO. 1, CGO COMPLEX
LODHI ROAD, NEW DELHI 110 003.**
- 3. THE ADDL. DIRECTOR GENERAL OF PLICE
SOUTHERN ZONE, CRPF, CHANDRAYANGUTTA
HYDERABAD, ANDHARAPRADESH - 560 006.**
- 4. THE INSPECTOR GENERAL OF POLICE
SOUTHERN ZONE, CRPF, GAYATARI HILLS
HYDERABAD, ANDHRAPRADESH - 560 005.**
- 5. THE DIG (MEDICAL) COMPOSITE HOSPITAL CRPF PALLIPURAM
THIRUVANANTHAPURAM, KERALA - 695 316.**
- 6. FORCE NO. 05240036 ASI (MIN) GIBI VARGHESE
GROUP CENTRE CRPF, YELAHANKA, BANGALORE
KARNATAKA - 560 064.**

R1 -R 6 BY ADV.SRI.N.NAGARESH ASSISTANT SOLICITOR GENERAL

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
03-07-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1 - A TRUE COPY OF THE TRANSFER ORDER DT. 13.8.14 ISSUED BY 3RD RESPONDENT.

EXT.P2 - A TRUE COPY OF THE TRANSFER GUIDELINES DT. 06.2.14 ISSUED BY 2ND RESPONDENT

EXT.P3 - A TRUE COPY OF THE REPRESENTATION DT. 14.8.14 SUBMITTED BY THE PETITIONER TO 4TH RESPONDENT.

EXT.P4 - A TRUE COPY OF THE ORDER ISSUED BY 3RD RESPONDENT DT. 10.6.14.

EXT.P5 - A TRUE COPY OF THE JUDGMENT IN WPC 23564/2014 DT. 03.9.14.

EXT.P6 - A TRUE COPY OF THE ORDER NO. T.IX.42/2014-ADM-LOF THE 3RD RESPONDENT DT. 24.12.14 ISSUED BY 4TH RESPONDENT.

EXT.P7 - A TRUE COPY OF THE OFFICE MEMORANDUM OF NO. 28034/2009. ESTT. (A) DT. 30.9.09 ISSUED BY THE DEPARTMENT OF PERSONNEL & TRAINING, NEW DELHI.

EXT.P8: COPY OF TRANSFER ORDER OF ASI DATED 16.4.2015.

EXT.P9: COPY OF THE REPRESENTATION DATED 23.6.2015 SUBMITTED BY THE PETITIONER TO 4TH RESPONDENT.

RESPONDENT(S)' EXHIBITS:

EXT.R1(A): COPY OF STANDING ORDER - 01/2014 OF DIRECTORATE GENERAL, CRPF.

//TRUE COPY//

P.S. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.1027 OF 2015 (C)

Dated this the 3rd day of July, 2015

J U D G M E N T

The petitioner, who is an ASI in the CRPF, and was posted to the Unit at Pallipuram in the year 2010, after having rendered service in a hard Station under the said Force, is aggrieved by Ext.P1 order of transfer dated 13.8.2014, which transfers him from Pallipuram to the unit at Chattisgarh. In the writ petition, the contentions of the petitioner are essentially that there has been no substitute posted in the vacancy that would result from the transfer of the petitioner, and further that the petitioner has been continuously posted at hard stations from 1997 to 2010. It is also stated that his wife, who is a teacher at Kollam, and daughter, who is studying at a School at Pallipuram, will be seriously prejudiced by the transfer of the petitioner. It is also the petitioner's case that now he has got another child, who is only an year old, and therefore, the transfer, at this point of time, would cause him great inconvenience. The petitioner also relies on Ext.P2 transfer guidelines which are in vogue in the respondent Force and contends that inasmuch as the majority of the

service rendered by him was in hard stations, he should be retained in a soft station for some more time. It is also contended that his wife is a State Government employee, and going by the transfer guidelines, he should also be accommodated in the Station where his wife is working.

2. A counter affidavit has been filed on behalf of the respondents, wherein, a distinction said to be made between constable and ministerial staff. It is pointed out that the petitioner had, after rendering service in hard station, requested for a transfer to a soft station, and accordingly, he was transferred to Pallipuram unit in 2010. It is stated that under normal circumstances, a person would be accommodated in a soft station for a maximum period of three years, whereas, in the present case, the petitioner has continued at Pallipuram since 2010. Lastly, it is pointed out that even in the writ petition, the request of the petitioner was only to retain him till the next summer chain transfer which was due in April, 2015, and by virtue of the interim order already granted to the petitioner in the present writ petition, the petitioner has successfully continued at Pallipuram Unit till date.

3. I have heard the learned counsel for the petitioner as also the learned Assistant Solicitor General of India for the respondents.

On a consideration of the facts and circumstances of the case, as also the submissions made across the bar, I find that the petitioner had earlier challenged the order of transfer dated 13.8.2014. By Ext.P5 judgment rendered by this court on that occasion, taking note of the fact that there were other persons who had not received any hard station posting, this Court had directed the respondents to consider the representation of the petitioner for a continued posting at Pallipuram. Although the petitioner preferred such a representation, the same came to be rejected by Ext.P6 order dated 24.12.2014. On a perusal of Ext.P6 order, I find that the respondents have given due consideration to the grievance faced by the petitioner, as stated in the representation, and have decided to confirm the order of transfer after taking into account the fact that the petitioner has already completed more than five years at the present Station. It is trite that in matters of transfer, this Court would be loathe to interfere save in exceptional cases where the order of transfer is demonstrated

to be vitiated by mala fides or issued in patent violation of the statutory guidelines. Inasmuch as in the instant case, I do not see such an irregularity in the order of transfer or in the reasons given in Ext.P6 order rejecting the representation of the petitioner, I find no reason to interfere with Ext.P1 order of transfer dated 13.8.2014 or Ext.P6 order issued in connection therewith. The writ petition therefore fails, and is accordingly dismissed.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp