

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 9TH DAY OF JULY 2015/18TH ASHADHA, 1937

WP(C).No. 9102 of 2015 (K)

PETITIONER(S):

**DADA KHALANDER MD AGED 34 YEARS
FORCE NO.00139622 S/O.ISMAIL SAB CONSTABLE(GENERAL DUTY)
CENTRAL RESERVE PROTECTION FORCE
RECRUIT TRAINING CENTRE-3 PERINGOME, ARAVANCHALPOST
KANNUR RESIDING AT QUARTER NO.98 TYPE II
ATTACHED TO RTC 3 CRPF CAMP PERINGOME
ARAVANCHALPOST, KANNUR.**

**BY ADVS.SRI.U.BALAGANGADHARAN
SRI.LINDONS C.DAVIS
SRI.SHAJIMON.K**

RESPONDENT(S):

- 1. UNION OF INDIA
REPRESENTED BY ITS SECRETARY
MINISTRY OF HOMEAFFAIRS, 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 POLICE
SOUTHERN ZONE, CRPF, CHANDRAYANGUTTA
HYDERABAD, ANDHRAPRADESH, - 560 006**
- 4. THE INSPECTOR GENERAL OF POLICE
SOUTHERN ZONE, CRPF, GAYATRI HILLS
HYDERABAD, ANDHRAPRADESH - 560 005.**
- 5. THE DEPUTY INSPECTOR GENERAL, CRPF
RECRUIT TRAINING CENTRE, PERINGOME, ARAVANCHAL POST
KANNUR - 670 307.**

**R1-R5 BY ADV. SMT.O.M.SHALINA, CGC
R BY SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
09-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P-1: TRUE COPY OF MEDICAL CERTIFICATE OF ABHISHEK HOSPITAL, HOSPET, KARNATAKA DATED 16.3.2015
- EXT.P-2: TRUE COPY OF MEDICAL RECORDS OF THE PETITIONER ISSUED BY PARIYARAM MEDICAL COLLEGE, KANNUR DATED 28.7.2014 TO 18.3.2015
- EXT.P-3: TRUE COPY OF MOVEMENT ORDER DATED 9.3.2015 ISSUED BY 5TH RESPONDENT
- EXT.P-4: TRUE COPY OF REPRESENTATION SUBMITTED BY THE PETITIONER TO 3RD RESPONDENT
- EXT.P-5: TRUE COPY OF THE MEDICAL CERTIFICATES ISSUED BY DOCTOR K RADHAKRISHNAN IN PARIYARAM MEDICAL COLLEGE HOSPITAL DATED 25.06.2015.
- EXT.P-6: TRUE COPY OF THE MEDICAL CERTIFICATES ISSUED BY DOCTOR AJAYAKUMAR S IN PARIYARAM MEDICAL COLLEGE HOSPITAL DATED 25.06.2015.
- EXT.P-7: TRUE COPY OF LETTER DATED 25.06.2015 SUBMITTED BY PETITIONER TO THE PRINCIPAL, CRPF, KTC, PERINGOME.

RESPONDENT(S)' EXHIBITS

- EXT.R1(a) TRUE COPY OF TRANSFER ORDER No.T.IX.12/2014 ADM-2 DATED 24.12.2014.
- EXT.R1(b) TRUE COPY OF EN ROUTE LEAVE APPLICATION DATED NIL GIVEN BY THE PETITIONER ALONG WITH ITS ENGLISH TRANSLATION.

// True copy //

PA to Judge

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A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C). No. 9102 of 2015

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Dated this the 9th day of July, 2015

JUDGMENT

The petitioner, who is working as a Constable in the respondent Force, was posted to the Peringome Unit on 27.08.2009. By Ext.P3 movement order dated 09.03.2015, the petitioner was directed to join 85 BN CRPF at Bijapur pursuant to an order of transfer that was issued against the petitioner. Although, the petitioner states that he had preferred Ext.P4 representation against the transfer, it is his case in the writ petition that the said representation was not considered and, therefore, he was faced with the imminent prospect of having to move to Bijapur. It is under those circumstances that the petitioner approached this Court, challenging the transfer order, inter alia, on the ground that his medical condition, as also the medical condition of his wife, did not permit him to undertake a journey to Bijapur consequent to the transfer order.

2. The writ petition was admitted by this Court on 31.03.2015 when by a separate order, the transfer of the petitioner was also stayed. The petitioner has been continuing at Peringome pursuant to the said interim order till now. A counter affidavit has been filed by the respondent, wherein it is stated that the petitioner

was posted to Peringome after a series of hard station postings, since the Unit at Peringome is considered as a soft station for the purposes of the respondent Force. It is also stated that, although the petitioner was relieved with effect from 09.03.2015 for taking up his posting at Bijapur, by an interim order dated 31.03.2015 this Court had stayed the transfer and, therefore, the petitioner did not proceed to the Unit at Bijapur. It is also stated in the counter affidavit that the petitioner, did not report either to the station at Peringome or to the transferred station at Bijapur and this amounted to an overstaying of the leave that was granted to the petitioner for the purposes of joining at Bijapur, consequent to the transfer order passed against him. The petitioner has also filed a reply affidavit to the counter affidavit filed by the respondents producing medical certificates to suggest that he was under medical treatment for the entire period during which he had overstayed his leave.

3. I have heard the learned counsel appearing for the petitioner and also the learned Standing Counsel appearing for the respondents.

4. On a consideration of the facts and circumstances of the case and the submissions made across the bar, and taking note of the submission of counsel for the petitioner that the petitioner is presently medically fit and ready to take up his posting at Bijapur, I need not go into the challenge that was initially raised in the writ petition against the order of transfer. Accordingly, the said challenge in the writ petition, against the order of transfer of the petitioner to Chattisgarh, is dismissed, and the petitioner is directed to join the Unit at Bijapur within a period of two weeks from the date of receipt of a copy of this judgment. Taking note of the submission of counsel for the petitioner that the petitioner was under medical treatment during the period of absence from duty pursuant to the interim order passed by this Court in 31.03.2015, I direct the respondent to consider the case of the petitioner for regularisation of the period between 09.03.2015 and the date of his joining at Bijapur as eligible leave for the purposes of his service.

The writ petition is disposed as above.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

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