

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN**

**MONDAY, THE 7TH DAY OF SEPTEMBER 2015/16TH BHADRA, 1937**

**WP(C).No. 13065 of 2015 (G)**  
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**PETITIONER(S):**  
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**PREETHA J. PANICKER (921550026-INSP/STENO), AGED 45 YEARS  
W/O.RATHEESH, "INSPECTOR/STENO"  
CENTRAL RESERVE POLICE FORCE, GROUP CENTER, PALLIPURAM  
THIRUVANANTHAPURAM, RESIDING AT "QUARTERS NO.18"  
TYPE III, GROUP CENTER, PALLIPURAM  
THIRUVANANTHAPURAM - 695 326**

**BY ADV. SRI.B.HARISH KUMAR**

**RESPONDENT(S):**  
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- 1. THE DIRECTOR GENERAL (CRPF)  
MINISTRY OF HOME AFFAIRS, CGO COMPLEX, LODHI ROAD  
NEW DELHI - 110003.**
- 2. THE ADDITIONAL DIRECTOR GENERAL, SOUTH ZONE  
CRPF, HYDERABAD, ANDHRA PRADESH - 560006.**
- 3. INSPECTOR GENERAL (P)  
SOUTHERN SECTOR, CRPF, HYDERABAD  
ANDHRA PRADESH - 560005.**
- 4. THE DEPUTY INSPECTOR GENERAL OF POLICE  
GROUP CENTER, CENTRAL RESERVE POLICE FORCE, PALLIPURAM  
THIRUVANANTHAPURAM, KERALA - 695 326.**

**R1-R4 BY ADV. SMT.C.G.PREETHA, CGC  
R BY SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL**

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

**APPENDIX**

**PETITIONER(S)' EXHIBITS**  
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- EXT.P-1:      A TRUE COPY OF THE TRANSFER ORDER DATED 25.11.11  
ISSUED BY THE RESPONDENT FORCE.**
- EXT.P-2:      A TRUE COPY OF THE REPRESENTATION DATED 13.3.13  
SUBMITTED BY THE PETITIONER BEFORE THE 1ST  
RESPONDENT.**
- EXT.P-3:      A TRUE COPY OF THE SIGNAL MESSAGE DATED 20.3.13 ISSUED  
BY THE RESPONDENT FORCE.**
- EXT.P-4:      A TRUE COPY OF THE INTERIM ORDER DATED 9.4.13 PASSED  
BY THIS HONOURABLE COURT.**
- EXT.P-5:      A TRUE COPY OF THE ORDER DATED 3.8.13 PASSED BY THE  
2ND RESPONDENT.**
- EXT.P-6:      TRUE COPIES OF THE PETITION DATED 29.1.15 SUBMITTED BY  
THE PETITIONER ALONG WITH THE FORWARDING LETTERS  
DTD 19.2.2015 AND 11.3.2015..**
- EXT.P-7:      A TRUE COPY OF THE SIGNAL MESSAGE DATED 11.3.15  
PASSED BY THE RESPONDENT FORCE.**
- EXT.P-8:      A TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE  
PETITIONER BEFORE THE 2ND RESPONDENT ON 19.3.15  
ALONG WITH THE FORWARDING LETTER DATED 21.3.15**
- EXT.P-9:      A TRUE COPY OF THE SIGNAL MESSAGE DATED 9.4.15 PASSED  
BY THE RESPONDENT FORCE.**
- EXT.P-10:     A TRUE COPY OF THE TRANSFER POLICY DATED 6.2.14 ISSUED  
BY THE 1ST RESPONDENT**

**RESPONDENT(S)' EXHIBITS:                      NIL**  
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**// TRUE COPY //**

**P.A TO JUDGE.**

**SB**

**K. VINOD CHANDRAN, J.**

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**W.P.(C) No.13065 of 2015 - G**

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**Dated this the 7<sup>th</sup> day of September, 2015**

**J U D G M E N T**

The petitioner is aggrieved with the fact that the petitioner has been transferred from Group Centre, Pallipuram to the Western Sector of the Central Reserve Police Force (C.R.P.F). The petitioner contends that the petitioner had been posted to the Range Head Quarters at Pallipuram from the Range Head Quarters at Chennai by Ext.P1 order dated 25.11.2011 and she joined Pallipuram on 31.01.2012. The Range Office at Pallipuram, admittedly was closed down and the same was transferred to Bangalore. However, the petitioner made a representation at Ext.P2, which was favourably considered and the petitioner though a person continuing in the rank of an Inspector was accommodated in the lower rank of Sub Inspector as per Ext.P5 order.

2. The petitioner was transferred to Western Sector by Ext.P3 dated 20.02.2013, which was challenged by the petitioner, before this Court, in which there was an interim order passed as Ext.P4. Later on, the petitioner is said to have withdrawn the writ petition on 24.07.2013 and approached the Additional Director General, South Zone for favourable consideration of her retention in Pallipuram Range itself. The same was allowed by Ext.P5.

3. The petitioner's contention is that later, the petitioner was sexually harassed by the 4<sup>th</sup> respondent, her immediate superior, against which a complaint was lodged as per Ext.P6. It is contended that due to the enmity in lodging such complaint, the 4<sup>th</sup> respondent had colluded with the Director General, who is said to have issued Ext.P7 order to transfer the petitioner out of the Southern Sector. The petitioner contends that Ext.P7 order is one issued malafide and without jurisdiction by a Deputy Inspector General. The petitioner also

contends that the petitioner is entitled to continue for a period of four years in the Sector to which she has been allotted.

4. The learned Central Government Counsel however refutes such contentions on the basis of the statement filed. The learned CGC refers to Ext.P10 to contend that a soft area posting for a person in the cadre of Inspector is only for a period of three years and not for four years. The petitioner has continued from 2002 onwards in a soft area and hence is liable to transfer to a hard area. It is also submitted that there is absolutely no connection between the sexual harassment complaint and the transfer, since both are independent proceedings. The petitioner is also said to have completed the Sector tenure of 10 years in the Southern Sector. The complaint of sexual harassment is independently enquired into and the same has not influenced the transfer, which was issued by the Directorate at New Delhi, which the Directorate alone could deal with being inter-Sector transfers.

5. The petitioner admittedly was in a soft area posting from 2002 onwards in the post of Sub Inspector and from 2008 in the post of an Inspector. The details are clearly shown in page 2 of the statement filed by the official respondents. The petitioner had been continuing in the Southern Sector for more than 10 years including her service in Chennai from 10/1996 to 01/1999 and her service spent in Hyderabad, Chennai and Pallipuram from January 2008 onwards till date. The Standing Order No.2 of 2014, laying down the Transfer Policy has been produced at Ext.P10. In paragraph 4 of Ext.P10 dealing with tenure of posting, soft area posting in the case of Inspectors, is said to be for a period of three years. In paragraph 10 of Ext.P10, the total period of posting in a Zone shall not be more than 8 years and 10 years in a Sector. The specific contention of the official respondent is that the petitioner has spent more than 10 years in the Southern Sector.

6. The further contention of the official respondents is

with respect to paragraph 12 of Ext.P10, which specifically prohibits any transfer/posting of an officer/official against the vacancy in a lower rank. Admittedly the petitioner occupies post of Inspector and was transferred to Pallipuram to occupy a similar post in the very same cadre at its Range Office. The Range Office having been abolished, the petitioner was accommodated in the Post of Sub Inspector, the lower cadre post, only due to the representation of the petitioner, which was considered by the 2<sup>nd</sup> respondent, who has the charge over the South Zone.

7. Ext.P7 is an order, though communicated by the Deputy Inspector General issued by the Directorate at New Delhi , which specifically points out the five instances in which Inspectors were said to be holding lower posts, which practice was deprecated. It was in Ext.P7 that the petitioner's name was also included and there was a direction to transfer the petitioner to a sanctioned post, since continuance in a lower post would set

a wrong precedent.

8. It cannot be said that Ext.P7 is issued without jurisdiction since it originates from the Directorate. The Authority for Transfer in the case of Zonal/Sector transfer, as per paragraph 3 of Ext.P10 is the Directorate General. The Additional Director General, the 2<sup>nd</sup> respondent is in charge of the South Zone and the Directorate at New Delhi only could issue transfer between the Zones/Sectors and the jurisdiction of the Additional Director General of the South Zone would be only with respect to the transfers within the Zone. The communication at Ext.P7 originates from the Directorate at New Delhi and no lack of jurisdiction can be found merely because the same is communicated by the Deputy Inspector General (Organisation).

9. The petitioner having completed her tenure of soft posting of three years, there can be no defect found in the transfer effected to the Western Sector. Further it is to be

noticed that the petitioner had been continuing in the present post from 31.01.2012, to which she was transferred on 25.11.2011 as per Ext.P1 order. The contention of malafides made by the petitioner has been sufficiently answered by the respondent, indicating the appointment of one Deputy Inspector General to function as the Chairman, Sector Level Committee to enquire into the matter. Needless to say any enquiry carried on, if requiring the presence of the petitioner, the expenses for the petitioner's presence before the Committee would be met by the respondent Organisation and the petitioner would also be granted duty leave to appear before the Committee. As has been rightly pointed out by the learned Central Government Counsel, there can be no mixing up of the two proceedings with respect to the complaint and the transfer. It is also to be noticed that the petitioner's transfer to Western Sector had been ordered by Ext.P3, prior to the complaint at Ext.P6. The petitioner was continued only on sympathetic circumstances. This Court does

not find any ground to sustain the contention of malafides, since the transfer order is not one actuated or motivated by reason only of the complaint Ext.P6 raised by the petitioner.

The writ petition would stand dismissed with the above observations. No costs.

**Sd/-  
K. VINOD CHANDRAN,  
JUDGE**

SB

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P.A to Judge.