

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE SMT. JUSTICE P.V.ASHA

TUESDAY, THE 28TH DAY OF JULY 2015/6TH SRAVANA, 1937

WP(C).No. 18836 of 2014 (D)

PETITIONER:

A PANKAJAKSHAN NAIR,
FORCE NO.841190782, ASI/C, 2 SIGNAL BATTALION
GROUP CENTRE PALLIPURAM SIGNAL PLATOON,
CENTRAL RESERVE POLICE FORCE (CRPF) CAMPUS,
PALLIPPURAM.P.O., THIRUVANANTHAPURAM.

BY ADV. SRI.K.P.HARISH

RESPONDENT(S) :

1. UNION OF INDIA
REPRESENTED BY SECRETARY TO GOVERNMENT
MINISTRY OF HOME AFFAIRS, NEW DELHI-110 001.

2. THE DIRECTOR GENERAL OF POLICE
CENTRAL RESERVE POLICE FORCE (CRPF), BLOCK NO.1
CGO COMPLEX, LODI ROAD, NEW DELHI-110 001.

3. THE INSPECTOR GENERAL OF POLICE (COMMUNICATION)
DIRECTORATE GENERAL CENTRAL RESERVE POLICE FORCE (CRPF)
BLOCK NO.1, CGO COMPLEX, LODI ROAD
NEW DELHI.110 001.

4. THE DEPUTY INSPECTOR GENERAL OF POLICE
SIGNAL RANGE, CENTRAL RESERVE POLICE FORCE (CRPF)
HC BLOCK, SECTOR-III, SALT LAKE
KOLKATA-106, WEST BENGAL.

5. THE DEPUTY INSPECTOR GENERAL OF POLICE
CENTRAL RESERVE POLICE FORCE (CRPF), GROUP CENTRE
PALLIPURAM.P.O., THIRUVANANTHAPURAM-695 001.

R- BY ADV. SRI.T.SANJAY, CGC
R BY SRI.P.PARAMESWARAN NAIR, ASG OF INDIA

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 28-07-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX

PETITIONER(S) ' EXHIBITS

P1- THE TRUE COPY OF THE POSTING ORDER DATED 23.04.2012.

P1(a)- THE TRUE COPY OF THE MOVEMENT ORDER.

P2- THE TRUE COPY OF THE STANDING ORDER NO.11/2002.

P3- THE TRUE COPY OF THE COMMUNICATION TO THE 4TH RESPONDENT BY THE COMMANDANT.

P4- THE TRUE COPY OF THE REFERRAL OF PATIENT ISSUED FROM THE COMPOSITE HOSPITAL CRPF, PALLIPPURAM DATED 08.04.2014.

P5- THE TRUE COPY OF THE REFERRAL OF PATIENT ISSUED FROM THE COMPOSITE HOSPITAL CRPF, PALLIPPURAM DATED 08.04.2014.

P6- THE TRUE COPY OF THE OUTPATIENT RECORD.

P7- THE TRUE COPY OF THE DISCHARGE SLIP ISSUED FROM THE CRPF BASE/GROUP HOSPITAL.

P8- THE TRUE COPY OF THE COMMUNICATION DATED 24.06.2014.

P9- THE TRUE COPY OF THE COMMUNICATION OF THE 5TH RESPONDENT TO THE 4TH RESPONDENT.

P10- A TRUE COPY OF THE REPRESENTATION DATED 09.07.2014 SUBMITTED TO THE 2ND RESPONDENT.

P11- THE TRUE COPY OF THE COMMUNICATION OF DEFERMENT OF TRANSFER DATED 14.08.2012 OF SIMILAR HANDS.

P12- TRUE COPY OF THE MOVEMENT ORDER DT.24.9.2014.

P13- TRUE COPY OF THE MOVEMENT ORDER DT.24.10.2014.

P14- TRUE COPY OF THE MOVEMENT ORDER DT.23.3.15.

P15- TRUE COPY OF THE PROMOTION ORDER NO.T.IX-1-1/15-ESTT-(2) DT.23.2.15.

P16- TRUE COPY OF THE REPRESENTATION DT.4.7.15.

P17- TRUE COPY OF THE REFERRAL OF PATIENT ISSUED FROM THE COMPOSITE HOSPITAL CRPF, PALLIPPURAM DT.3.7.15.

P18- TRUE COPY OF THE HISTORY AND CLINICAL EXAMINATION REPORT OF THE PETITIONER DT.4.7.15 OF MEDICAL COLLEGE HOSPITAL, THIRUVANANTHAPURAM.

P19- TRUE COPY OF THE HISTORY AND CLINICAL EXAMINATION REPORT DT.4.7.15 OF PETITIONER'S MOTHER.

P20- TRUE COPY OF THE COMMUNICATION NO.T-IX-3/15 ADM. DT.2.5.15.

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: 2 :

RESPONDENT(S) ' EXHIBITS

EXT.R2(a): TRUE COPY OF TRANSFER ORDER DT.29.01.2013.

EXT.R2(b): TRUE COPY OF ORDER DATED 15.03.2013 DEFERRING THE TRANSFER
OF THE PETITIONER.

EXT.R2(c): TRUE COPY OF ORDER DT.17.7.14 REJECTING THE REQUEST OF THE
PETITIONER.

EXT.R2(d): TRUE COPY OF THE GOVERNMENT OF INDIA DECISION NO.1 GIVEN
BELOW RULE 20 OF CENTRAL CIVIL SERVICE (CONDUCT) RULES.

EXT.R2(e): TRUE COPY OF THE FITNESS CERTIFICATE ISSUED BY THE CHIEF
MEDICAL OFFICER.

/TRUE COPY/

P.S TO JUDGE

P.V.ASHA, J.

W.P(c) No.18836 of 2014-D

Dated this the 28th day of July, 2015

JUDGMENT

The petitioner, who is presently under orders of promotion as S.I in C.R.P.F, had filed this Writ Petition while working as A.S.I, aggrieved by the order of his transfer as per Ext.P4 from 2 signal Battalion, Group Centre Pallipuram Signal Platoon, Thiruvananthapuram to 4 Signal Neemuch, Madhyapradesh. The second prayer in the Writ Petition is for a direction to the respondents to permit him to continue at Thiruvananthapuram till he completes his tenure at home state on 08.05.2015.

2. The petitioner's request for posting in his home state was allowed as per Ext.P1 order issued on 23.04.2012. His request was on the ground that he has been suffering from Multiple Lipoma and he has undergone surgery for removing 5 Lipomas from left hand and was undergoing rest and that he is affected by the same in many parts of his body.

3. I heard Sri Harish appearing for the petitioner and Sri Sanjay, C.G.C. The learned counsel for the respondent

vehemently opposes the Writ Petition as well as the interim order passed.

4. The respondents filed counter affidavit with a prayer to vacate the interim order. It is pointed out in the counter affidavit that the petitioner has overstayed the period of home state and on compassionate grounds he was allowed to continue in the home state for a further period of one year as per Ext.R2 (b) on 12.03.2013. It is also pointed out that the posting given to the petitioner has caused inconvenience to several others who are waiting for similar postings in home state. It is stated that he has been serving in the static areas since the year 2005 except for two years and 11 months in the field area in between. In the additional counter affidavit filed on 24.06.2015 it is stated that considering his request for continuing in the station for treatment of his mother, higher education of his son, settlement of land dispute etc., his transfer order to 4 Signal Battalion was deferred for one more year and he was retained for one more year in Pallipuram till 15.03.2014 as per Ext.R2(b) and it is thereafter that he has been continuing in the same station on the strength of the stay order passed by this Court. Now the petitioner is again seeking continuance in Pallipuram even after

promotion.

5. In the meanwhile the petitioner was promoted as S.I as per Ext.P15 order and posted to 5 Signal. According to the petitioner, the present posting is at Chandighad. The petitioner states that he continues to undergo surgery and treatment for Lipoma and it is practically impossible for him to report in 5 Signal. He has submitted Ext.P16 representation dated 4.7.2015 before the 3rd respondent.

In the circumstances of the case, there will be a direction to the 3rd respondent to consider Ext.P16 representation, if it is received, as expeditiously as possible. Since the petitioner has been continuing in the same station on the strength of the interim order of this Court, the petitioner will be allowed to continue in the same station till a decision is taken on Ext.P16 representation.

This Writ Petition is disposed of accordingly.

Sd/-
(P.V.ASHA, JUDGE)

rtr/