

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

**PRESENT:**

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

**THURSDAY, THE 1ST DAY OF OCTOBER 2015/9TH ASWINA, 1937**

**WP(C).No. 29848 of 2014 (E)**  
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**PETITIONER:**  
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**S.KIRAN, AGED 40 YEARS  
S/O.SOMAN ASSAN  
INSPECTOR PROTECTION FORCE (IFP)  
BOMB DETECTION SQUAD (BDS)  
RAILWAY PROTECTION FORCE  
THIRUVANANTHAPURAM DIVISION, SOUTHERN RAILWAY  
THIRUVANANTHAPURAM CENTRAL  
(UNDER ORDERS OF TRANSFER TO BILASPUR)**

**BY ADVS.SRI.D.KISHORE  
SMT.MINI GOPINATH**

**RESPONDENTS:**  
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- 1. UNION OF INDIA  
REPRESENTED BY ITS SECRETARY  
MINISTRY OF RAILWAYS, NEW DELHI-100 001.**
- 2. THE SOUTHERN RAILWAY  
REPRESENTED BY ITS GENERAL MANAGER  
CHENNAI-600 003.**
- 3. THE CHIEF SECURITY COMMISSIONER  
RAILWAY PROTECTION FORCE, 6TH FLOOR  
MOORE MARKET COMPLEX, CHENNAI-600 003.**
- 4. THE DEPUTY CHIEF SECURITY COMMISSIONER  
SOUTHERN RAILWAY (DISCIPLINARY AUTHORITY)  
MOORE MARKET COMPLEX  
CHENNAI-600 003.**
- 5. THE DIVISIONAL SECURITY COMMISSIONER  
RAILWAY PROTECTION FORCE, THIRUVANANTHAPURAM-695 001.**

**BY ADV. SRI.C.S.DIAS,SC, RAILWAYS**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON  
01-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

**APPENDIX**

**PETITIONER'S EXHIBITS:-**  
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- EXT. P1 - COPY OF THE PROCEEDINGS NO. VXP/227/153/MISC/14 DATED 15/08/2014 OF THE 5TH RESPONDENT.
- EXT. P2 - COPY OF THE PETITIONER VIDE PROCEEDINGS NO.X/P.227/SK/TVC DATED 11/09/2014 OF THE 4TH RESPONDENT.
- EXT. P3 - COPY OF THE RELEVANT EXTRACT OF DAILY DAIY OF 13/8/2014.
- EXT. P4 - COPY OF THE PROCEEDINGS NO. VXP/227/153/14 DATED 30/10/2014 OF THE 5TH RESPONDENT.
- EXT. P5 - COPY OF THE PROCEEDINGS NO. VXP/535/IPF/14 DATED 30/10/2014 OF THE 5TH RESPONDENT.
- EXT. P6 - COPY OF THE PROCEEDINGS NO. VXP/535/IPF-BDS/14 DATED 30/10/2014 OF THE 5TH RESPONDENT.
- EXT. P7 - COPY OF THE RELEVANT PAGES OF THE RAILWAY PROTECTION FORCE RULES, 1987.
- EXT. P8 - COPY OF THE TREATMENT CERTIFICATE ISSUED FROM THE REGIONAL CANCER CENTRE, THIRUVANANTHAPURAM.

**RESPONDENTS' EXHIBITS:-**  
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- EXT.R5(1) - COPY OF THE JUDGMENT DATED 16.10.2014 PASSED BY THIS COURT.
- EXT.R5(2) - COPY OF THE EXTRACT OF THE PHONE CALLS MADE BY THE PETITIONER AND SRI. MILANBIGOLA ON 14TH AND 15TH OF AUGUST, 2014.
- EXT.R5(3) - COPY OF THE LETTER DATED 11.08.1999 ISSUED BY THE JOINT DIRECTOR OF RAILWAY PROTECTION FORCE, MINISTRY OF RAILWAYS (RAILWAY BOARD).
- EXT.R5(4) - COPY OF THE POSTERS WHICH WAS PASTED AT THE TRIVANDRUM CENTRAL RAILWAY STATION PREMISES.
- EXT.R5(4)(A) - ENGLISH TRANSLATION OF EXHIBIT R5(4).

(CONTD...)

- EXT.R5(5) - COPY OF THE POSTING MADE ON THE WALL OF FACEBOOK ACCOUNT OF SRI.GOPINATHAN VIJAYAKUMAR, A MEMBER OF THE FORCE.
- EXT.R5(5)(6) - COPY OF THE TRANSFER ORDER DATED 09.09.2014 ISSUED BY THE DIRECTOR GENERAL OF RAILWAY PROTECTION FORCE, MINISTRY OF RAILWAYS, NEW DELHI.
- EXT.R5(7) - COPY OF THE OFFICE ORDER DATED 15.09.2014 ISSUED ON BEHALF OF THE 3RD RESPONDENT.

//TRUE COPY//

P.A. TO JUDGE

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**K. VINOD CHANDRAN, J.**

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**W.P(C). No.29848 of 2014**  
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**Dated this the 1<sup>st</sup> day of October, 2015.**

**JUDGMENT**

Read interim order dated 11.11.2014.

*"The learned counsel for the petitioner has submitted that the petitioner has been subjected to transfer in a vindictive manner pending disciplinary proceedings. He has contended that the enquiry is to take place at Selam, Tamil Nadu, whereas the petitioner now stands transferred to Bilaspur, Chattisghad. According to the learned counsel, it is well neigh impossible for the petitioner to defend himself properly in the department enquiry given the distance, apart from other constraints. The learned counsel has also drawn my attention to certain provisions of the Railway Protection Force Rules, 1987, and contended that in normal circumstances a delinquent, who is facing departmental proceedings, shall not be subjected to transfer.*

*2. The learned Standing Counsel has raised serious objections concerning the relief sought in the writ petition. He has submitted that the petitioner has taken recourse to abuse of process and has been indulging in character vilification of his superiors. In that regard, he has submitted that the petitioner has pasted material in conspicuous places of the railway stations spreading canards about the superiors, apart from posting derogatory material in*

*social media as well. Under those circumstances, the respondent authorities at a highest level took a decision to transfer the petitioner in public interest, as well as in the best interest of the administration. He has further submitted that in terms of the prevalent practice, once a delinquent is transferred to a particular place, the disciplinary proceedings would also be transferred to the same place.*

*3. Accordingly, the learned Standing Counsel has sought time to file counter affidavit placing on record in detail all the submissions he has made hitherto. Accordingly, post the matter in ten days to enable the learned Standing Counsel to file counter affidavit, along with the material, if any. The petitioner's joining at the transferee place shall be subject to the outcome of the writ petition."*

2. The learned Standing Counsel has filed a Counter Affidavit, as directed in the interim order, specifically pointing out that the entire disciplinary proceedings have been shifted to South Central Railways, under which jurisdiction now the petitioner has been transferred. The petitioner's only contention was that, his transfer would in fact impair an efficient defense to be presented, since the disciplinary proceedings are to be carried out under the Southern Railway and he stands transferred to Bilaspur. The said grievance having been mitigated by the

statement made in the Counter Affidavit, the petitioner has a different contention.

3. The learned counsel for the petitioner now seeks sympathetic consideration on ground of the petitioner's mother-in-law being disabled by illness. However, that cannot lead to interference in a transfer, since the specific ground raised against the transfer was with respect to the disciplinary proceedings being carried on in a different jurisdiction, which the Railways has ensured would not happen by transferring the same to the place in which the petitioner is now posted.

In such circumstances, nothing survives in the writ petition and the same would stand dismissed. No costs.

Sd/-

**K. VINOD CHANDRAN,  
JUDGE.**

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//True Copy//

P.A. to Judge.