

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.01.2016

CORAM

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI
AND

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN

W.A.No.68 of 2016
and
C.M.P.No.855 of 2016

Wing Commander KY Jojo
(21119-S AE(M))

... Appellant

Vs.

1. Union of India,
rep by the Secretary,
Ministry of Defence,
101, South Block,
New Delhi-110 011.
2. The Chief of Air Staff,
Air Head Quarters, Vayu Bhavan,
Rafi Marg, New Delhi-110 106.
3. Air Officer-in-charge, Personnel,
DPO-I (M), Air Head Quarters (VB)
New Delhi-110 011
4. Air Officer Commanding-in-Chief,
HQs, Training Command, IAF,
Bangalore-560 006.
5. Commanding Officer,
MTTI, Air Force,
AF Station, Avadi,
Chennai-600 055.
6. Air Officer Commanding,
No.49 Wing, Air Force,
C/o-56 APO.

.. Respondents

This writ appeal is preferred under Clause 15 of Letters Patent against the order dated 22.12.2015 made in W.P.No.38936 of 2015.

Writ Petition praying to issue a Writ of Certiorari call for the records pertaining to the Order No.UNC PO/649 dated 30.10.2015 passed by the third respondent and quash the same.

For Appellant : Mr.M.Chidambaram

For Respondents : Mr.G.Rajagopal,
Additional Solicitor General of India
for Mr.V.Balasubramanian for R-1

JUDGMENT

(Judgment of the Court was made by SATISH K. AGNIHOTRI, J.)

The instant intra-court appeal arises from the order dated 22nd December, 2015 made in W.P.No.38936 of 2015.

2. Questioning the correctness of the transfer order dated 30th October, 2015, whereby the writ petitioner working as Wing Commander, AF Station, Avadi, Chennai, was transferred to Naliya, Gujrat.

3. The grounds of challenge to the transfer order is that his two children are studying in 11th and 8th standard in Chennai and aged parents are residing at Tiruchur. Further, he has completed only two years at the present place of posting. It is further contended that para 28 of the AIR Headquarters Human Resource Policy provides that study of the children may be taken into consideration before transfer and posting of a person.

4. The learned Single Judge, referring to and relying on judicial pronouncements of the Supreme Court in J.K.Bansal Vs. Union of India and others¹ and Union of India Vs. S.L.Abbas² held that no case has been made out for interference with the transfer order.

5. Law is well settled in respect of challenge to transfer order. Transfer is an incidence of service. The writ petitioner-employee has no legal right to claim that he be posted at a particular place for ever. Judicial review in a transfer matter is permissible only in a case where transfer is vitiated by mala fides or is made in violation of any statutory provision or the officer, passing the order, is lacking jurisdiction.

1 (2005) 7 SCC 227

2 (1993) 4 SCC 357

6. In the case on hand, discrimination is pleaded on the ground that other similarly situated officers, whose children are studying, have been retained. This cannot be made as a ground of discrimination. There are several factors, including administrative exigencies and convenience, which confer power on the authority to post a person at a particular place. It is neither pleaded nor urged that any of the aforesaid grounds is available to interfere with the transfer order.

7. The grounds raised by the appellant is not sustainable in the eyes of law. The impugned order rendered by the learned Single Judge is just and proper, warranting no interference. Accordingly, the writ appeal stands dismissed. No costs. Consequently connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

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Sub Assistant Registrar

vvk

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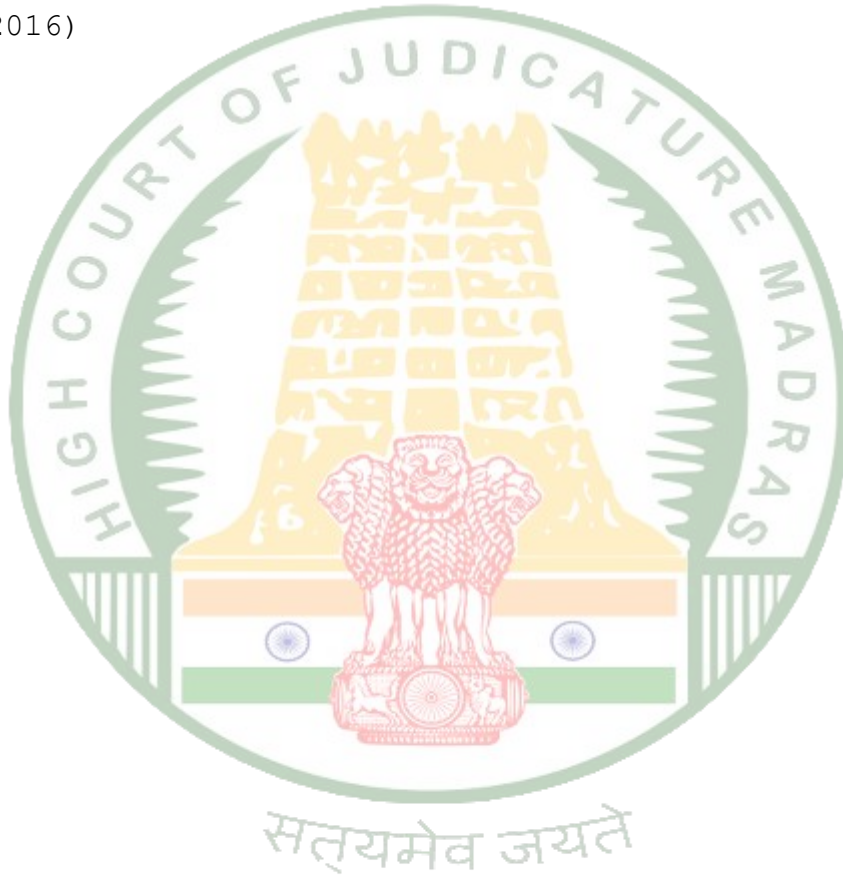
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6. Air Officer Commanding,
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C/o-56 APO.

+1cc to Mr.V.Balasubramanian, Advocate, S.R.No.4616
+1cc to Mr.M.Chidambaram, Advocate, S.R.No.5037

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SAI (CO)
CA(11/02/2016)



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