

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF
ANDHRA PRADESH**

**WEDNESDAY, THE SIXTH DAY OF JANUARY TWO
THOUSAND AND SIXTEEN**

Present

HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.6558 of 2014

Between:

N. Srinivasulu, S/o.Late N.V. Subba Raidu,
Aged 44 years, Occ: Head Constable/GD,
R/o. 3005-E, CISF Complex,
BHEL, Hyderabad.

.. Petitioner

AND

Union of India,
Rep. by its Secretary,
Department of Home Affairs,
New Delhi – 110 003 & 3 others

.. Respondents

The Court made the following:

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HON'BLE SRI JUSTICE P.NAVEEN RAO

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ORDER:

The petitioner is recruited as a Constable in the year 1990 and promoted as Head Constable. On initial completion of training, the petitioner was posted in the State of Uttar Pradesh and worked there between 1991 and 1995 and again from 1995 to 1997 in the State of Uttar Pradesh at two different units and from 1997 to 2002, the petitioner was posted at Manuguru, Khammam District and from 2002 to 2007, he was posted at BHEL, Bangalore in the State of Karnataka and from 2007 onwards, the petitioner is working in the Central Industrial Security Force, BHEL Unit at Hyderabad (4th respondent). This writ petition is instituted challenging the movement order, dated 31.01.2014. By this movement order, the petitioner is asked to report before Kirandul Unit. This Court granted interim direction on 07.03.2014 and by virtue of the interim direction, the petitioner continued to work in Hyderabad. Praying to vacate the said interim order, the respondent organization filed vacate stay petition.

2. It is the case of the petitioner that the petitioner is liable to be transferred on ordinary course on completion of three years and though the petitioner has been working in Hyderabad Unit since 2007, but on account of the peculiar terms at the

domestic front, the petitioner has been requesting for retention in Hyderabad.

3. According to the learned counsel for the petitioner, the wife of the petitioner is suffering from '*Paranoid Schizophrenia*' and she requires continuous medical attention. The wife of the petitioner is bed ridden and there is no other family member to look after her. Learned counsel further submits that his two daughters are pursuing Post Graduation and Graduation in Engineering respectively and, therefore, his continuation in Hyderabad is necessary. The transfer at this stage is causing lot of hardship and suffering to the petitioner. The respondent authorities ought to have sympathetically considered the grievance of the petitioner on account of these peculiar terms and ought to have retained him in Hyderabad for some more time.

4. Learned Assistant Solicitor General representing the respondents opposes such claim of the petitioner. According to the learned counsel, the petitioner has been accommodated generously. As per the norms, ordinarily a person can be in home zone for a maximum period of 12 years in the entire service, whereas in the instant case, the petitioner has already completed more than 16 years in his home zone i.e., South Zone by the time of his transfer and by now it is almost 18 years. On account of the peculiar grievances raised by the petitioner, the petitioner was accommodated for a long time and in the State of Telangana, the petitioner has put up more than 12 years service. In Hyderabad, he has put in more than 8 years by now and, therefore, he cannot be continued. Learned counsel further submitted that as per the request of the petitioner, he is accommodated in Kirandul and having requested for accommodation in Kirandul and which request is considered, it is

not open to the petitioner to challenge the said movement order. Learned counsel further submits that in the Industrial Security Force, such conduct of the employee cannot be appreciated. It may lead to bad precedent and result in making similar claims. Wherever the person is posted, medical facilities would be available and the family members are entitled to avail the medical facilities.

5. The petitioner is working in Industrial Security Force and the recruitment to the Central Industrial Security Force requires movement all over the country. Therefore, wherever a person is posted, he has to work and employee cannot refuse to be transferred. As per norms evolved for transfers and postings, an employee is entitled for retention for maximum of 12 years in the entire service in the home Zone and is liable for transfer from a station on completion of 3 years of service. In the instant case, the petitioner has been in the Home Zone for more than 18 years by now. In Hyderabad itself, the petitioner has been working for more than 8 years continuously as against 3 years tenure. The only reason appears to be that the petitioner's wife is unwell and, therefore, requires accommodation. That problem can be subsisting even when the person is retained. Therefore, mere transfer of the petitioner does not change the position with reference to the attention that is required to his wife. On that ground alone, the petitioner cannot seek to continue at the same place for such a long time. However, it is for competent authority to examine such grievance. Practice of continuation at one particular station for more than 8 years and for further continuation is not conducive to a disciplined force like the Central Industrial Security Force. As the transfer is incidence of service and the petitioner is validly transferred by the competent

authority, merely because there are some personal difficulties, Court cannot interfere and hold such transfer as illegal. As seen from facts on record petitioner has been accommodated generously so far. Thus, there is no merit in the contentions of the petitioner warranting interference by this Court.

6. Be that as it may, by virtue of the interim order granted by this Court on 07.03.2014, the petitioner has already completed two more years in Hyderabad and no direction for further continuation can be granted.

7. If there is merit in the grievance of the petitioner regarding the health of his wife and education of his children, it is always open to the petitioner to make a representation to the competent authority for consideration for retention or appropriate accommodation and to ventilate his grievance but on those grounds, the Court cannot interfere. It is ultimately for the competent authority to consider such request in the interest of the employee and in the larger interest of the organization.

8. The Writ Petition is dismissed. However, liberty is granted to the petitioner to ventilate his grievance by submitting representation to competent authority and as and when such representation is made, it is always open for the competent authority to consider the representation for any suitable posting. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

P.NAVEEN RAO, J

Date: 6th January, 2016

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HON'BLE SRI JUSTICE P.NAVEEN RAO

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