

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

AND

THE HON'BLE DR.JUSTICE B.SIVA SANKARA RAO

WRIT APPEAL NO.180 OF 2016

JUDGMENT: *(Per Hon'ble Sri Justice Nooty Ramamohana Rao)*

The appellant before us is a constable enrolled with Central Industrial Security Force, which was constituted in terms of and in accordance with Section 3 of the Central Industrial Security Force Act 1968 (henceforth referred to, for brevity, as 'Act'). It would be apt to notice that Sub-Section (1) of Section 3 of the Act empowered the Central Government to constitute and maintain an armed force of the Union to be called as the Central Industrial Security Force for providing better protection and security to industrial undertakings owned by the Central Government, Joint venture or even private industrial undertakings. Thus, CISF was constituted as an Armed Force of the Union.

The appellant is currently attached to the Central Industrial Security Force unit at B.D.L, Bhanur, Medak District, Telangana State. On 04.02.2016 the movement order was issued directing the petitioner to proceed on regular posting to CISF unit at Chennai Port Trust, Chennai on administrative grounds. This order is resisted on plurality of grounds including those of health concerns of the writ appellant/petitioner as well as his dependent mother. It is the case of the appellant/petitioner that he was diagnosed to be suffering from 'Allergic Rhynosinusitis reactive airway disorder' and hence he cannot function effectively and efficiently wherever there was dust pollution. It was also submitted that his aged mother was diagnosed to be suffering from cancer and hence she requires medical assistance at frequent intervals. There was also some other supernumerary problems including the possible dislocation of school going child of the appellant/petitioner.

So long as transferability is a condition of service and thus forms part of incidence of service, an order of transfer cannot be resisted except on extremely limited grounds. Principal amongst them recognised are as malafide and the authority who issued the order lacking competence to do so. In the instant case, the order of transfer has been passed by the DIG of the Force. It is not doubted before us that DIG is not the competent authority to affect any such transfer. The only contention, which is urged before us is that the petitioner/appellant cannot function where there is dust pollution and his health condition would prevent him from discharging his functions very effectively and efficiently in such circumstances.

By the very nature of the services to be rendered by the members of the Force, they are bound to be attached to one industrial undertaking or the other. Not all industrial undertakings and not all security posts established in such industrial undertakings would have clean working conditions. As it is, dust pollution is a phenomenon, which is mostly prevalent across this country and particularly around industrial undertakings because of movement of heavy trucks bringing in the raw material and those which carry the finished products out of the industrial undertakings.

Therefore, while preserving liberty to the petitioner/appellant to report before the competent authority at the Chennai Port Trust and then submit a detailed representation for attaching him to any particular security post where the prevalence of dust pollution is least in the premises of Chennai Port Trust or for that matter any other industrial undertaking at Chennai, we dismiss the writ appeal. Accordingly, the writ appeal is dismissed. No costs.

Consequently, the miscellaneous petitions pending, if any, shall also stand closed.

JUSTICE NOOTY RAMAMOHANA RAO

11.03.2016
Ksp

JUSTICE DR.B.SIVA SANKARA RAO