

HONOURABLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION Nos. 2751, 2841, 2849, 2892, 2898, 2929, 2934 of 2016

Date : 10.2.2016

Between :

K Prabhakar S/o K Dalaiahaha

Hakimpet, Secunderabad

Petitioner

And

The Union of India

Home Department

Rep by its Secretary, South Block

New Delhi- 110001 and others

Respondents

The Court made the following:

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COMMON ORDER:

Since the issue raised in all these writ petitions is same, they are being disposed of by common order. Heard learned counsel for petitioners and learned Assistant Solicitor General appearing for respondents.

2. Petitioners are constables working in Central Reserve Police Force

(for short CRPF). CRPF is having All India presence and constables recruited in CRPF are required to work wherever they are posted in the country. The transfers are governed by the transfer policy. According to the transfer policy, ordinarily person working in the Static Station can be retained for a period of three years and in the Special Operation Zones, can be retained for a period of four years. In cases on hand, petitioners were transferred to the present place of posting which is called Static Station in the year 2012. On completion of three years of tenure in Static Station, they are considered for transfer and by the orders dated 6.1.2016 impugned in the writ petitions, petitioners in all these writ petitions are transferred out of Static Station i.e., Hyderabad.

3. Primary ground urged by the learned counsel for petitioners is that though several other constables are posted even prior to the transfer of the petitioners, they are not disturbed, whereas petitioners are now sought to be transferred, which amounts to

arbitrary exercise power and authority. As per the transfer policy, transfers have to be effected from 1st April of the year in which transfers are made earlier, whereas, in the cases on hand, petitioners are now transferred by orders issued in January, 2016. Children of the petitioners are pursuing their education and at this stage disturbing the petitioners would cause lot of hardship and suffering. It is also contended that some of the petitioners have personal problems regarding age, health condition of the parents and therefore petitioners ought to have been retained for some more time. Learned counsel for petitioners further contended that some of the petitioners have served in the Field Formations for more than 15 years. This was the first Static posting given after serving Field Formation for long period and therefore petitioners ought to have been retained in Static posting for some more time.

4. Learned Assistant Solicitor General on instructions submits that the list of constables whose names are mentioned in the material papers filed along with the writ petition are examined and it is seen that except persons shown at Serial Nos. 9 to 16 in the statement filed along with W P No. 2751 of 2016, all others are already transferred and many of them are also relieved. Persons shown at Serial Nos. 9 to 16 of the statement are drivers and even with reference to them, proposals are already submitted for transfer and transfer orders are expected any moment from the Head office. He further submits that transfers are affected as per the transfer guidelines. The restriction imposed in Clause 5 (viii) of the Transfer Policy that a constable shall not be disturbed during the middle of the academic session is applicable in the normal circumstances but exceptions are also provided in cases of exigencies of service. In all these writ petitions, petitioners are now transferred to Special Operation Zone and posting in Special Operation Zone is an exigency of service. For special operations the forces have to be moved from place to place and no time frame can be imposed, since such transfers are required in the interest of security of the nation. Learned Assistant Solicitor General, therefore, submits that transfers are made in transparent manner in accordance with the transfer guidelines and no exception can be made for such transfers.

5. Learned Assistant Solicitor states that so far movement orders are not issued and same would be issued shortly and constables are to be ready to move as soon as movement orders are issued.

6. Admittedly, petitioners are working in CRPF and it being a Special Police organ of the Union, constables are required to work wherever they are posted and in the larger interest of the nation, the movement of troops can be effected depending on the operational requirements at various places. However, to the extent possible, transfer guidelines are required to be followed. In the instant cases, petitioners are in Static Station for more than three years and are liable for transfer. There is no merit in the grievance of the petitioners that some other constables are retained while petitioners are transferred, in view of the explanation offered by the learned Assistant Solicitor General. Even otherwise, petitioners have completed the minimum stay of three years, as such, they are liable for transfer and no grievance can be made merely on the ground that some others are retained for various reasons, at the discretion of the competent authority. No malafides are attributed against any officer on transfer of a particular person and retention of other persons. On mere ground that few of the constables are retained and others are transferred, transfers of petitioners cannot be interfered. As submitted by the learned Assistant Solicitor General, all over India, transfers are effected and in all 2036 constables are transferred from place to place. Thus, it is not a case where petitioners are picked up for transfer while retaining many others working for long time.

7. There are certain individual grievances raised in the writ petitions. Learned counsel for petitioners contended that normally transfers are to be effected on 1st April of the year of transfer, whereas in the present case transfers are effected before completion of the academic session and children are affected. According to para 6 of the Transfer Guidelines, certain age is prescribed for posting in Special Operations Zone and petitioners do not fulfill said condition. With reference to individual grievances regarding education of the children, health and other aspects of the family members as well as the clause of retention in the Static Zone and the restriction of posting in Special Operation Zone, liberty is granted to petitioners to ventilate their grievances by submitting individual representations to respondents 2 and 3 and as and when such representations are made, same shall be considered objectively in accordance with law.

8. Subject to above directions, the writ petitions are disposed of. No costs. Having regard to the same, miscellaneous petitions, if any pending, are closed.

P NAVEEN RAO,J

DATE:10.2.2016

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HONOURABLE SRI JUSTICE P. NAVEEN RAO

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