

HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

W.P.No.34216 of 2013

ORDER

This writ petition is filed challenging the order dated 20.03.2013 passed by the third respondent and rejection of appeal by the second respondent dated 17.09.2013.

The petitioner joined as Constable General in Central Reserve Police Force in the year 1986. Thereafter, she was selected as Assistant Sub Inspector (Ministerial) in the year 1992 and further promoted as Sub Inspector (Ministerial) in the year 2007. Her husband is also working in the Central Reserve Police Force as Sub Inspector (Communication) and posted in 39 Battalion, Chattisgarh. When she was sought to be transferred on 20.02.2013 from Group Centre Ranga Reddy to 198 Batallion, Visakhapatnam, her husband, who was working in Chattisgarh was transferred to 99 Batallion, Rapid Action Force (RAF), Hyderabad on 18.4.2013. Challenging the transfer order dated 20.3.2013, she filed W.P.No.17510 of 2013 as her son is studying XII, her daughter is studying VIII at Hyderabad and that their education would be adversely affected. It is her case that she rendered 27 years and her husband rendered 32 years of service and they have stayed

together only for three years in Uttar Pradesh, two years in Kerala and one and half year in Jaipur. This Court disposed of the said writ petition on 25.6.2013 directing the second respondent to consider the request of the petitioner and till a decision is taken by the second respondent, not to relieve the petitioner from the present place of working. However, the fourth respondent relieved the petitioner *vide* order dated 21.06.2013. Challenging the same, she filed W.P.No.25201 of 2013. This Court vide order dated 28.6.2013 directed the respondents not to relieve the petitioner till a decision is taken by the second respondent as per orders passed in W.P.No.17510 of 2013, dated 25.6.2013. Thereafter, the first respondent passed the consequential order dated 17.9.2013. In the meanwhile, this Court disposed of W.P.No.25201 of 2013 permitting the petitioner to withdraw the writ petition and to file a fresh writ petition. Hence, the present writ petition is filed.

Counter-affidavit has been filed on behalf of the respondents stating that the petitioner reported in Group Centre, CRPF, Ranga Reddy after her transfer from Group Centre, CRPF, Pallipuram on 26.3.2012. At that time, her husband was deployed at Chattisgarh. As per the Standing Order No.2 of 2011, the normal tenure of posting in all static offices will be four years. Thereafter, they have to be rotated to duty Battalions

and those who are in the Duty Battalions could be posted to static offices to get equal opportunity to serve in static places as well as unit places. The petitioner in her total service of 20.9 years in ministerial cadre has managed to get static postings at Rampur, Lucknow, Pallipuram, Jaipur and Ranga Reddy and she completed seven years in the present posting since 2006 against normal tenure of four years in static posting. The details of posting at various places are given in the counter. Keeping in view the rationalization and rotation of ministerial staff and providing opportunity to eligible officials including those posted in hard areas to avail posting of their choice, a policy decision was taken by the competent authority to rotate such officials who have been availing continuous static/soft postings in same area/place during Summer Chain Transfer-2013 as per the instructions of the Directorate General on 27.09.2012 and 24.1.2013. Accordingly, the petitioner was transferred. As per the transfer policy, husband and wife serving in the force shall mandatorily be considered for posting to same place/station or at a place which may be covered by overnight train journey in accordance with GOI, Ministry of Personnel Grievances and Pension (DoPT) and Standing Order No.2 of 2011. Keeping in view the said instructions, the impugned order was passed. The relevant portion

of the impugned order reads as follows:

“And Whereas, in compliance to the Court order dated 25.6.2013, the transfer case of the petitioner and her husband has been examined afresh by the competent authority with a view to accommodate both husband and wife at one place or posting of the petitioner at a place nearby posting place of her husband. The petitioner is availing static/soft posting since her appointment in the ministerial cadre wef 27.09.1992 i.e., for 21 years and not eligible for posting to static/soft areas till she completes her one tenure in field/hard area. Thus her allotment/transfer from GC Ranga Reddy to 198 Bn issued by ADG Southern Zone/IG Southern Sector vide their Signal No.T.IX-5/2013-SZ-Adm-II, dated 20.03.2013 and No.T.IX-4/2013-KKS-Adm-II, dated 19.4.2013 is in order as per transfer policy of the Department. Further, the petitioner at present is posted in 198 Bn stationed at Visakhapatnam (AP) and her husband No.831220152 Insp/RO K.B. Arvindakshan is posted in Signal Platoon of 99 RAF Bn stationed at Ranga Reddy (AP). The distance between these two stations is approximately 586 Kms and can be covered by overnight journey by train. Thus, the existing postings of both husband and wife in the instant case is also within the provisions of the transfer policy of department as well as instructions issued by the DoPT vide OM dated 30.09.2009 which provides posting of husband and wife at same place or places which may be covered by overnight train journey.

Now therefore, after taking into consideration the entire issue in totality with reference to the provisions of the transfer policy, the competent authority has desired that transfer of the petitioner from GC, Ranga Reddy to 198 Bn ordered vide IG, Southern Sector Signal No.T.IX-4/2013-KKS-Adm-II, dated 19.4.2013 and transfer of her husband No.831220152 Insp/RO K.B.Arvindakshan from 198 Bn to 99 RAF Bn Ranga Reddy ordered by Commandant-2nd Signal Bn will stand.”

Learned Senior Counsel appearing for the petitioner submits that now the husband of the

petitioner is transferred to 141 Battalion, CRPF, Bhadrachalam and the children will be without care of the parents if the petitioner is also transferred from the present place of working.

It is clear from the averments made in the affidavit that the son of the petitioner was studying XII and daughter was studying VIII at the time of filing the writ petition. During the last three years, they might have grown up and must be studying in degree course and intermediate course respectively. The respondents are conscious of the transfer policy and the instructions issued by the Government of India with regard to the posting of wife and husband. Since a reasoned order was passed keeping in view the posting of the petitioner at several places during the tenure of her service, this Court is not inclined to interfere with the impugned order.

Accordingly, the writ petition is dismissed. However, it is open to the petitioner to submit a representation ventilating her grievance and it is for the authorities to consider the same and pass appropriate orders without being influenced by the observations made in this order. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE A.RAMALINGESWARA RAO

9th August, 2016
rkk