

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.10.2017

CORAM

THE HON'BLE MR.JUSTICE HULUVADI G.RAMESH
AND

THE HON'BLE MR.JUSTICE RMT.TEEKAA RAMAN

Writ Appeal No.1087 of 2017

E.Gopinath

.. Appellant

Vs.

1. The Commandant
2 Signal Battalion
Central Reserve Police Force
Keshovgiri Post
Chandrayangutta
Hyderabad 500 005.

2. The Office Commanding
D/2, Signal Battalion
Central Reserve Police Force
Group Centre
Avadi
Chennai 600 065.

.. Respondents

Appeal under Clause 15 of the Letters Patent filed against the order
dated 07.8.2017 in W.P.No.17905 of 2016.

For Appellant : Mr.J.Lakshmi Narayanan

For Respondents : Mr.K.Venkatasamy Babu

Spl. Govt. Pleader

J U D G M E N T

(Delivered by Huluvadi G.Ramesh,J)

The writ appeal is directed against the order dated 07.8.2017 in W.P.No.17905 of 2016.

2. The appellant joined the services of the respondent Force in 2004. While he was serving in Tripura, he was diagnosed with Psychosis and therefore, he was transferred to Group Centre, Avadi, Chennai and he is taking treatment at Avadi and at Vellore. It appears that the appellant was posted at Kashmir. Therefore, the appellant filed a writ petition and obtained an order of interim injunction and finally, the writ petition was dismissed by the impugned order. Hence, the appellant has come up with this appeal.

3. Admittedly, transfer of an employee is not only an incident, but also a part of the service conditions and such order of transfer is not required to be interfered with lightly by a court of law in exercise of its discretionary jurisdiction unless the court finds that either the order is mala fide or that the service rules prohibit such transfer or that the authorities, who issued the order, had not the competence to pass the order. Further, it is entirely upon the competent authority to decide when, where and at what point of time a public servant is to be transferred from his present posting.

4. In the light of the above and in view of the fact that the appellant is in Avadi since 2012 and though he was transferred in 2016, under the guise of interim orders obtained by him in the writ petition, he is still serving in Chennai, namely for more than five years, we are of the considered view that the order of the learned single Judge rejecting the prayer of the appellant not to transfer him from the present place, namely Avadi, does not require any interference.

5. However, since the learned counsel for the appellant pleaded that the appellant is still undergoing treatment and that it would be difficult for the appellant to serve in Kashmir since it is a coldest place, we grant liberty to the appellant to make a representation to the respondents expressing his difficulties to serve in the transferred place and it is for the respondents to consider such representation in accordance with law. If the representation of the appellant is not considered favourably, the appellant shall join at the transferred place on or before 1st December 2017.

The writ appeal is disposed of accordingly. There shall be no order as to costs. Consequently, CMP No.15152 of 2017 is closed.

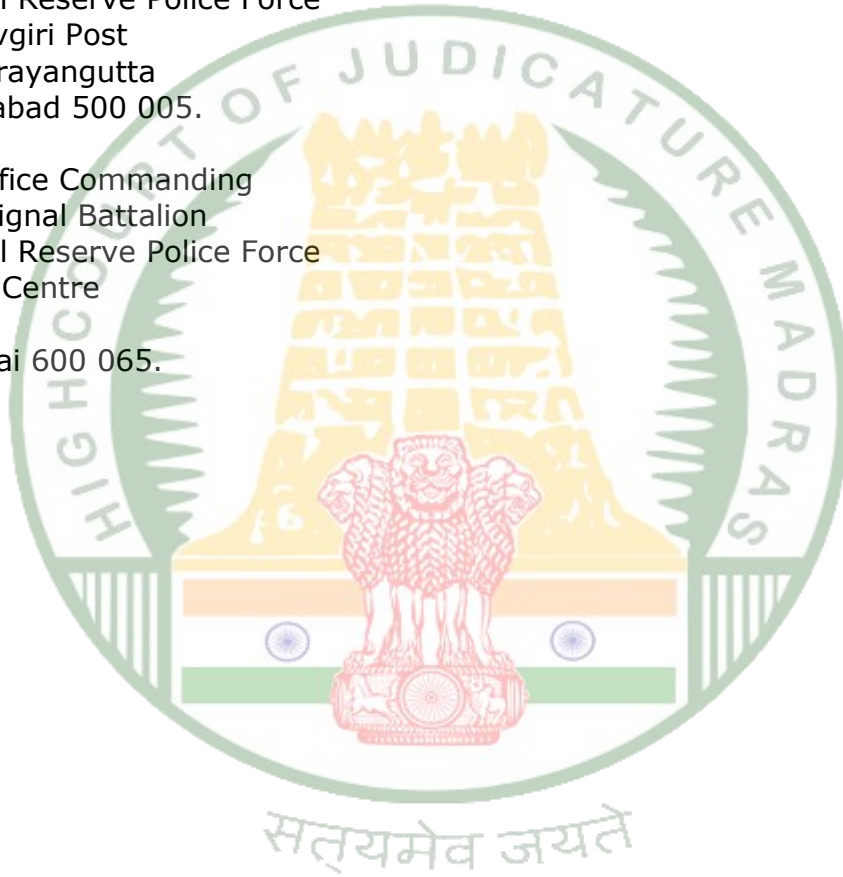
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(H.G.R.J.) (T.K.R.J.)
03.10.2017

kpl

To

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HULUVADI G.RAMESH,J,
and
RMT. TEEKAA RAMAN,J
kpl



W.A.No.1087 of 2017.

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