

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.10.2017

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G. RAMESH  
and  
THE HONOURABLE MR.JUSTICE RMT. TEEKAA RAMAN

W.A.No.1268 of 2017  
and  
CMP.No.17632 of 2017

M.Vadivel ... Appellant/Petitioner

vs.

1.The Inspector General of Police,  
Southern Sector, Central  
Reserve Police Force  
Road No.10C, Jubilee Hills,  
Gayathri Hills, Hyderabad - 500 033.

2.The Deputy Inspector General Of  
Police (Administration)  
Southern Sector Headquarters  
Central Reserve Police Force  
Road No.10C, Jubilee Hills,  
Gayathri Hills, Hyderabad - 500 033.

3.The Deputy Inspector General of Police,  
Group Centre, Central  
Reserve Police Force,  
Avadi, Chennai-600 065.

... Respondents

Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 09.08.2017 passed by the learned Single Judge of this Court in W.P.No.13932 of 2017 . Petition presented to this court to quash a writ of certiorarified Mandamus to call for the records relating to the impugned order of the second respondent in No.T.IX.10/2017-SS-Adm-II dated 12.05.2017 and quash the same in so far as the posting of the petitioner is concerned and direct the Respondents to rehabilitate the Petitioner by providing lighter duty at Group Centre Avadi Chennai so as to enable him to avail medical treatment as enumerated in the Central Reserve Police Force Standing order No.04/2011 dated 27.07.2011.

For Appellant : Mr.J.Lakshmi Narayanan

For Respondents: Mr.K.Srinivasamurthy, CGSC

#### JUDGMENT

(Order of the Court was made by HULUVADI G. RAMESH,J.)

The unsuccessful writ petitioner is the appellant herein. This Writ Appeal has been directed against the order dated 09.08.2017 passed in W.P.No.13932 of 2017, whereby, the learned Single Judge dismissed the writ petition and upheld the order of transfer passed by the second respondent transferring the writ petitioner from Avadi, Chennai to Chhattisgarh.

2.It will be convenient for us, if we refer to the parties, as per the nomenclature assigned to them, in the writ petition.

3.Brief facts giving rise to the instant writ appeal are that on 01.02.1988, the petitioner joined the Central Reserve Police Force as Constable (GD). Subsequently, he was promoted as Head Constable (HC/GD) on 05.01.2004 and Assistant Sub Inspector (ASI/GD) on 03.08.2012. On 02.11.2012, when he was serving at Srinagar, he had a heart attack, due to which, he returned to Tamil Nadu and was placed under Low Medical Category. On 26.03.2013, he was subjected to medical examination, as a result of which, he was categorized as SHAPE-P3 (T-24) and advised to perform light duties and to avoid strenuous exercises. During 2015, he again got chest pain, for which, he was taking treatment at Chennai. On 04.11.2015, he was again subjected to the Review Medical Board Examination, consequent to which, he was categorized as SHAPE P-3 (Permanent). Be that as it may, on 12.05.2017, he was informed by the third respondent that the second respondent transferred and posted him at 217 battalion stationed at Konta Taluk, Sukma District in Chhattisgarh State. Aggrieved over the said transfer order, he filed a writ petition in W.P.No.13932 of 2017, which was dismissed by the learned Single Judge by the order impugned herein. Questioning the justifiability of the dismissal of the writ petition, the petitioner has preferred the present appeal.

4.The learned counsel for the petitioner would contend that the petitioner is entitled to light duty, in commensurate with his shape categorization as per the Standing Orders, whereas, the learned Single Judge failed to appreciate the same in a proper perspective and dismissed the writ petition affirming the callous attitude of the respondents by issuing the transfer order. He would further contend that the learned Single Judge erred in holding that the Standing Orders are only circulars/instructions and it will not prohibit the competent authorities from issuing administrative transfer and posting,

whereas, the Standing Orders are issued by the Head of the CRPF under the powers conferred on him by the Statute and are binding on the authorities. Therefore, the learned counsel prayed that due to the functional incapacities of the petitioner, the impugned order has to be set aside and he may be retained in the same station at Avadi, Chennai, so as to enable him to continue his medical treatment.

5. On the contrary, the learned Central Government Standing Counsel, who takes notice for the respondents, would submit that the job of the petitioner is a transferable one and the competent authority may transfer an employee from one place to the other and that, there is no violation of the standing orders as alleged by the petitioner. He would further submit that as per the opinion of the Medical Board, the petitioner is posted at a place, where, adequate medical support is available and he will be provided light duty. Therefore, no interference is warranted in the order impugned herein.

6. We have considered the rival submissions made by the parties and perused the records.

7. It is not disputed that the petitioner is serving in CRPF, which is a disciplined Uniformed Service and due to his ailment, he was categorized as Shape - P3 (Permanent) by the Medical Board constituted by the respondent authority. It is also not disputed that the petitioner was posted to Chennai in the year 2012 and is continuing for about five years.

8. The learned Single Judge dismissed the writ petition challenging the transfer order on the grounds that the order issued by the respondent authority is an administrative transfer, on account of the completion of normal tenure by the petitioner; the family circumstances and the personal inconvenience can never be claimed as a matter of right; the Standing Orders referred to by the petitioner, are the subject matters to be considered only by the competent authority and that, the petitioner is continuing for about five years and his further continuance is certainly not desirable, since he is working in a disciplined Uniformed Force, i.e., CRPF.

9. The issue of transfer and posting has been considered, time and again, by the Apex Court and the entire law has been settled by catena of decisions. 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. Transfer is not only an incident, but an essential condition of service. One such decision is in the case of

N.K.Singh v. Union of India reported in 1994 SCC (6) 98, wherein, it is held at para 23 as follows:

".....Assessment of worth must be left to the bona fide decision of the superiors in service and their honest assessment accepted as a part of service discipline. Transfer of a government servant in a transferable service is a necessary incident of the service career. Assessment of the quality of men is to be made by the superiors taking into account several factors including suitability of the person for a particular post and exigencies of administration. Several imponderables requiring formation of a subjective opinion in that sphere may be involved, at times. The only realistic approach is to leave it to the wisdom of that hierarchical superiors to make that decision. Unless the decision is vitiated by mala fides or infraction of any professed norm or principle governing the transfer, which alone can be scrutinised judicially, there are no judicially manageable standards for scrutinising all transfers and the courts lack the necessary expertise for personnel management of all government departments. This must be left, in public interest, to the departmental heads subject to the limited judicial scrutiny indicated."

10. In the light of the aforesaid settled legal position, we are of the considered opinion that it is not a case, where, the order of transfer issued to the petitioner is vitiated by any mala fides. The petitioner, who is admittedly, working on a transferable post with All India Transfer liability, cannot claim as a matter of right that he should be retained in a particular State or Station. It is the choice of the respondent authority to determine how long the service of an employee is required in a particular place. Further, an order of transfer is an incidence of service and it does not affect any of his legal rights. That apart, the guidelines laid down for transfer are only the general instructions to the authorities concerned and infraction thereof, if any, would not provide any cause of action to an employee to assail the order of transfer in a court of law. In such view of the matter, the transfer order issued to the petitioner, which was confirmed by the learned Single Judge, cannot be found fault with and the same is hereby confirmed. However, it is open to the petitioner to approach the higher authority to ventilate his grievances.

11. Accordingly, the petitioner is directed to report/join for work, where he is transferred, on or before 01.12.2017. After joining the transferred place, he is at liberty to make a

representation expressing his difficulties to the higher authority. On such representation being made, the higher authority shall consider the same on merits and in accordance with law.

12. With the above observation, the writ appeal stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-  
Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

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To

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Group Centre, Central Reserve Police Force,  
Avadi, Chennai-600 065.

+ 1 cc to MR. Srinivasamoorthy, Advocate Sr.72980  
+ 1 cc to Mr. J. Lakshminarayanan, Advocate Sr.73479

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NM(CO)  
EU(16/11/2017)

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