

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.08.2017

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.11133 of 2016 &
M.P.Nos.9670 & 9671 of 2016

S.Arul
HC/GD (MAH), Group Centre,
Central Reserve Police Force,
Avadi, Chennai-602 065. ..Petitioner

Versus

- 1.The Deputy Inspector General of Police,
Group Centre, Central Reserve Police Force,
Avadi, Chennai 600 065.
2. The Director General of Police,
Central Reserve Police Force,
CGO Complex, Lodhi Road,
New Delhi-110 003. ..Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorarified Mandamus, calling for the records in respect of the Office Order in signal No.T.IX.2/2016-EC-1 dated 25.02.2016, passed by the office of the 2nd respondent and quash the same and consequently direct the respondents not to transfer the petitioner herein.

For Petitioner :M/s.R.Maheswari

For Respondents :Mr.Venkataswamy Babu
Senior Panel Counsel Central
Government of India

O R D E R

The petitioner has come forward with this Writ Petition to quash the Office Order in signal No.T.IX.2/2016-EC-1 dated 25.02.2016, passed by the office of the second respondent, transferring her from Avadi, Chennai to 135 Battaion, Gandhi

Nagar, Gujarat, and consequently direct the respondents not to transfer her, on the ground that she had undergone knee surgery and has to take treatment at Chennai.

2.The main contention of the writ petitioner is that she is taking care of her mother aged about 70 years and had undergone knee operation at MIOT Hospital, Chennai. Further, the writ petitioner is have three girl children and all are school going.

3.This Court is unable to accept the grievances raised in this Writ Petition. With regard to the sufferings of the aged mother of the writ petitioner as well as the school going children of the writ petitioner, if consideration is shown on these ground, no transfer can be effected by the authorities concerned. The CRPF being a disciplined Uniformed Service, everyone is supposed to serve in the interest of our great Nation. Any compromise shown in this regard is deprecated. Facilities and concessions are provided by the Government time and again in order to encourage the personnel working in hard area in Uniformed service. But, such concessions or facilities can never be claimed as a matter of legal right. Post or place is the prerogative of the Government and the employee can never claim the post or place as a matter of legal right. Repercussions while interfering with the administrative transfers are also be considered by the Constitutional Courts. Because, always, administrative transfers are made posting the personnel from one place to another place so as to bring some other personnel from the other places to a particular place. Thus, the All India lever repercussions are involved in such administrative transfers, transferring the Uniformed personnel in the Department. Any intervention in this regard will certainly cause inconvenience to the peaceful administration of the Uniformed Forces. Further, the writ petitioner was posted to Chennai during April 2011 and she is continuing for about six years. Hence, further continuance in Avadi, Chennai is not desirable. The other grievances with regard to the medical history has to be considered only by the competent authorities and not by this Court.

4.This being the view of this Court, all the Standing Orders and guidelines are only instructions and no Standing Order prohibits the competent authorities from issuing administrative transfer and posting. Thus, this Court may not be in a position to go into the factual aspects and decide whether the writ petitioner should be allowed to continue only in Avadi, Chennai or not. Furthermore, the writ petitioner is continuing in Avadi, Chennai, for about six years and further continuance is certainly not desirable, since she is working in a disciplined Uniformed Force, like CRPF.

5. Transfer of an employee is a prerogative power vested with the competent authority. It is for the competent authority to decide how and where to post the personnel for effective administration. The writ petitioner being an employee of a uniformed service has to abide by the administrative orders more specifically of transfers.

6. In respect of medical treatments, Gandhinagar, Gujarat is the State Head Quarters and this Court is easily able to presume that adequate medical facilities will be certainly available in any Head Quarters of a State. Intervention in administrative transfers will not only cause inconvenience to the administration, but also amounts to preventing opportunity of other employees to come over to their native places. Administrative transfer policies are implemented in the interest of the department, more so, in the uniformed services, in order to maintain discipline and good conduct. Periodical transfers of uniformed personnel are highly essential. Keeping an uniformed personnel in one place may create issues relating to others' right to come over to their native places or any native States. CRPF being a disciplined force, has to maintain such a disciplined conduct throughout in the interest of our great nation. This apart, all the Standing Orders and the Guidelines in this regard are instructions to be followed and no Standing Order prohibits the competent authority from issuing administrative transfer and posting.

7. This Court is very much conscious that administrative transfers are allowed to be implemented in the interest of administration. It is not for the Courts to interfere or exercise the power of judicial review in the matter of transfers. Only on exceptional circumstances i.e. to say in the event of violation of any statutory rules, the power of judicial review can be exercised and not otherwise. Violation of certain guidelines / suggestions given in the form of circular or orders, which will not confer any legal right on the employees. In other words, the circulars and orders of the Government with regard to the guidelines issued for implementing transfers will not confer any right on the employees to claim on the basis of certain concessions shown in order to make the employees more accommodative and more effective for running the administration. Thus, it is for the competent authorities to consider all these aspects in respect of the personal grievances of the employees, while effecting transfers. Such being the legal principles on transfers, this Court is of the undoubted opinion that the administrative transfers cannot be challenged by way of writ petition and this Court has to be conscious, while exercising the judicial review against the orders of administrative transfers.

8.A Government servant holding a transferable post, has no vested right to remain posted at one place or the other and he is liable to be transferred from one place to the other. Transfer orders issued by the competent authority do not violate any of his legal right. Even if a transfer order is passed in violation of executive instructions or orders, the Courts ordinarily should not interfere with the order, instead the affected party should approach the higher authorities of the department. If Courts continue to interfere with day-to-day transfer orders issued by the Government and its sub-ordinate authorities, there will be complete chaos in the administration, which would not be conducive to public interest. The Courts need not overlook these aspects while interfering with the orders of transfers.

9.In the case on hand, writ petitioner is posted to Chennai during April 2011 by virtue of an interim order granted by this Court, the writ petitioner is continuously working in Avadi, Chennai, for about six years. In fact, it is not preferable to allow the writ petitioner to continue in Avadi, Chennai, furthermore. Thus, the writ petition and the grounds raised therein deserve no merit consideration.

10. Accordingly, the writ petition stands dismissed. However, there is no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

rpa

To

1. The Deputy Inspector General of Police,
Group Centre, Central Reserve Police Force,
Avadi, Chennai 600 065.
2. The Director General of Police,
Central Reserve Police Force,
CGO Complex, Lodhi Road,
New Delhi-110 003.

+ 1 cc to Mr.Venkataswamy Babu, Advocate,SR.56540
+ 1 cc to M/s.R.Maheswari, Advocate,SR.57307

W.P.No.11133 of 2016

NR 06/09/2017