

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Special Original Jurisdiction)

Thursday, the Twenty Third day of February Two Thousand Seventeen

PRESENT

THE HON`BLE MR.JUSTICE K.K.SASIDHARAN

and

THE HON`BLE MR.JUSTICE V.PARTHIBAN

WMP No.4826 of 2017

in WP No.4600 of 2017

N.SATHEESAN

[PETITIONER]

Vs

1 UNION OF INDIA [RESPONDENTS]
REP. BY INSPECTOR GENERAL OF POLICE,
OFFICE OF THE INSPECTOR GENERAL OF POLICE,
PUDUCHERRY

2 SUPERINTENDENT OF POLICE (HQ)
OFFICE OF THE INSPECTOR GENERAL OF POLICE,
PUDUCHERRY

3 SUPERINTENDENT OF POLICE
OFFICE OF THE SUPEERINTENDENT OF POLICE,
MAHE.

4 THE REGISTRAR
CENTRAL ADMINISTRATIVE TRIBUNAL,
CHENNAI 600 104

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to grant an interim order of stay of the order No.4882/SPM/CR/2015 dated 11.12.2015 issued by 3rd respondent and order No.7/ SP(HQ)/ TR/2015-17 dated 14.12.2015 issued by 2nd respondent pending WP.No.4600 of 2017.

Order : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of MS.Y.KAVITHA for M/S.GIRIDHAR AND SAI, Advocate for the petitioner and of MR.SYED MUSTAFA

SPL.GOV.T.PLEADER (P) on behalf of the Respondents the court made the following order:-

This miscellaneous petition is filed to stay the execution of the order bearing No.4882/SPM/CR/2015 dated 11 December 2015 and the subsequent order dated 14 December 2015, pending disposal of the writ petition.

2. Heard the learned counsel for the petitioner and the learned Special Government Pleader (Services) on behalf of the respondents 1 to 3.

3. The petitioner was appointed as Police Constable vide order dated 28 July 1994. The petitioner worked as Police Constable in various regions of the Union Territory of Puducherry.

4. While the petitioner was working as Police Constable at Yanam, which is an outlying region of Puducherry, he suffered cardiac arrest resulting in hospitalisation. The Government of Puducherry, taking into account the health condition of the petitioner transferred him to Puducherry Armed Police at Mahe, by order dated 7 August 2013. The petitioner joined the Police Camp at Mahe pursuant to the order dated 7 August 2013.

5. The documents available on record indicates that a complaint was preferred by the President of Sree Krishna Bhajan Samithy, Mahe against the petitioner. The complainant was summoned by the Inspector of Police. The complainant informed the Inspector of Police that no such complaint was given by him and it was an act of forgery. The Police, therefore, registered a case and commenced investigation.

6. While so, the petitioner received a communication from the Superintendent of Police, Mahe, dated 11 December 2015 directing him to report before the Superintendent of Police (PAP), Puducherry immediately. The instruction was sent by the Inspector General of Police, Puducherry by wireless message. The order dated 11 December 2015 contained a statement that pursuant to the direction given by the Inspector General of Police, Puducherry, the order was passed.

7. Thereafter, the Puducherry Police Establishment Board, convened a meeting on 14 December 2015 and resolved to transfer the petitioner from PAP Dett. Mahe to PAP at Puducherry. The petitioner challenged the transfer order on various grounds, including malafides.

8. The Tribunal granted interim stay of operation of the transfer order during the currency of the original application. The petitioner is presently working at Mahe, pursuant to the order passed by the Tribunal, pending disposal of the original application.

9. The Central Administrative Tribunal dismissed the original application on the ground that the transfer order was passed by the Committee constituted for the said purpose and it was made on administrative exigencies.

10. Feeling aggrieved, the petitioner has come up with the writ petition.

11. We have perused the materials available on record. The respondents would be justified in their contention that the transfer was made on administrative grounds, in case, there was no order made on 11 December 2015, directing the petitioner to report before the Superintendent of Police (PAP), Puducherry immediately. The order dated 11 December 2015 *prima facie* shows that the Inspector General of Police, Puducherry wanted the petitioner to be transferred to Puducherry forthwith. It was only thereafter, the Committee met on 14 December 2015. The Inspector General of Police, Puducherry, who was instrumental in directing the petitioner by order dated 11 December 2015 to report at Puducherry was also a participant in the meeting held on 14 December 2015, for passing order to transfer him to Puducherry. The petitioner is *prima facie* correct in his contention that having decided to transfer him on 11 December 2015, the meeting held on 14 December 2015 was only a ritual to make it appear as if transfer was approved by the Police Establishment Board, Puducherry.

12. The larger issue raised by the petitioner and more particularly, the malafides in transferring him from Mahe to Puducherry within a period of two years requires to be considered in detail after filing counter affidavit by the respondents.

13. The order transferring the petitioner from Mahe to Puducherry has already been stayed by the Tribunal. The petitioner, who is a local resident is presently working at Mahe. We are therefore of the view that the said status quo shall continue till the disposal of the writ petition.

14. The order dated 14 December 2015 transferring the petitioner from Mahe to Puducherry shall be kept in abeyance till the disposal of the writ petition in W.P.No.4600 of 2017.

15. The miscellaneous petition is disposed of with the above direction.

-sd/-
23/02/2017

/ TRUE COPY /

Sub Assistant Registrar (Statistics / C.S.)
High Court, Madras - 600 104.

TO

1 THE INSPECTOR GENERAL OF
POLICE, UNION OF INDIA, OFFICE OF THE
INSPECTOR GENERAL OF POLICE, PUDUCHERRY .

2 SUPERINTENDENT OF POLICE (HQ)
OFFICE OF THE INSPECTOR GENERAL OF POLICE,
PUDUCHERRY

3 SUPERINTENDENT OF POLICE
OFFICE OF THE SUPERINTENDENT OF POLICE,
MAHE

4 THE REGISTRAR
CENTRAL ADMINISTRATIVE TRIBUNAL,
CHENNAI 600 104

C.C. to M/S.GIRIDHAR AND SAI Advocate on payment of necessary
charges

The Government Pleader, (Pondy) High Court, Madras - 104
SR.NO.2374

Order

in
WMP.4826/2017

in
WP.4600/2017

Date :23/02/2017

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