

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.08.2017

CORAM

THE HON'BLE Mr. JUSTICE S.M.SUBRAMANIAM

W.P.No.20844 of 2017 and WMP.Nos.21701 and 21702 of 2017

Motilal Rajak

... Petitioner

Vs.

1. The Deputy Inspector General of Police (Establishment),
Office of Directorate General,
Central Reserve Police Force,
Block No.1, CGO Complex,
Lodhi Road, New Delhi-110 003.
2. The Deputy Inspector General of Police/Principal,
Recruit Training Centre, Group Centre,
Central Reserve Police Force,
Avadi, Chennai-600065.
3. The Vice Principal (Adjutant),
Recruit Training Centre, Group Centre,
Central Reserve Police Force,
Avadi, Chennai-600 065.

... Respondents

Prayer : Petition filed under Article 226 of The Constitution of India praying to issue a writ of Certiorari to call for the records relating to the impugned order of the third respondent dated 22.07.2017 and quash the same and direct the respondents to retain the Petitioner in the present station, namely, Recruit Training Centre (RTC), Group Centre, Avadi, Chennai so as to enable him to continue the medical treatment for infertility as enumerated in the Central Reserve Police Force Standing Order No.07/15 dated 04.08.2015.

For Petitioner : Mr.J.Lakshmi Narayanan
For Respondents : Mr.S.Meenakumari, CGSC

ORDER

The order of transfer, transferring the writ petitioner from Avadi, Chennai to 110 Battalion, is under challenge in this writ petition.

2 The learned counsel appearing for the writ petitioner strenuously contended that his client is taken treatment for infertility and therefore, he must be allowed to continue to work in Chennai, at least for further period of one year. To substantiate his arguments, the learned counsel urged this Court to look into the Standing Order No.07/2015 dated 04.08.2015 issued by the Director General of CRPF. The learned counsel cited Paragraph 15 and it is relevant to extract the same:

"(XVI) However, the eligibility conditions as laid down above may be relaxed by one year in very deserving cases by Sector IGP in the following circumstances:

- Sudden death of spouse of child.
- Transfer on medical grounds may be considered on merit in case one's spouse or child suffering from any of the following disease:
 1. Cancer
 2. Paralytic Stroke
 3. Renal failure
 4. Coronary artery disease, Thalassaemia
 5. Parkinson's disease
 6. Motor-neuron disease
 7. Infertility
 8. Any other critical/serious disease if recommended by the board of medical officers/Composite Hospitals.

3 On a perusal of the Standing order, this Court is of the view that it is a guidelines/instructions issued to the authorities for consideration, while effecting administrative transfers. Even in Paragraph 15 cited by the learned counsel, it is stated that there is an eligibility condition laid down above "may be relaxed by one year in very deserving cases by Sector IGP". Thus, it is only an instruction to be considered by the competent authorities and certainly, not by the Constitutional Courts. The instructions are issued for effective administration and it is not for the Courts to interfere in the administrative transfers, then and there, so as to hamper the effective administration, more so in disciplined uniform forces. This being the view of this Court, the instruction cited by the learned counsel cannot have the statutory force and it is for the authorities to consider all these aspects, while effecting administrative transfers. The interference of the Courts in administrative transfers are absolutely not preferable and if interference is made in day-to-day administration, more so, in transfers, it will certainly cause inconvenience to the administration and the interest of the public at large.

4 The learned Central Government Standing Counsel appearing for the respondents opposed the contentions by stating

that the writ petitioner was posted at Avadi, Chennai in the year 2013 and as per the information furnished by him to the office of the respondent, he is taking treatment for infertility from the year 2015. Thus, the writ petitioner is taking treatment for about two years for infertility in Chennai and continuing in the same station at Chennai for about four years. Thus, all the representations and medical treatment given by the writ petitioner was considered by the respondent and therefore, no further consideration in this regard need to be made. It is further contended that in CRPF which is an uniformed service, a person cannot be allowed to serve in one station for many number of years. The petitioner having served about four years at Avadi, Chennai, cannot have any grievances and the reason cited by the learned counsel that he is taking treatment for infertility continuously for more than two years and even as per the Standing Order of one year period, had already been given to the writ petitioner. Such being the factum, no further leniency or concession needs to be extended to the writ petitioner.

5 Transfer being incidental and condition to service. The Court can exercise the power of judicial review only on exceptional circumstances and not in a routine manner and administrative transfers issued in the interest of administration and in the interest of public at large, are to be effected by the competent authorities only. A judicial review in this regard is undoubtedly limited and such a legal principle are reiterated and emphasized by Honourable Supreme Court of India time and again.

6 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 a 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.

7 In this view of the matter, no further adjudication or concession need to be shown on the grounds raised in this writ

petition. Accordingly, the writ petition stands dismissed. No costs. Consequently, the connected miscellaneous petitions are also dismissed.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

sk

To

1. The Deputy Inspector General of Police (Establishment),
Office of Directorate General,
Central Reserve Police Force,
Block No.1, CGO Complex,
Lodhi Road, New Delhi-110 003.
2. The Deputy Inspector General of Police/Principal,
Recruit Training Centre, Group Centre,
Central Reserve Police Force,
Avadi, Chennai-600065.
3. The Vice Principal (Adjutant),
Recruit Training Centre, Group Centre,
Central Reserve Police Force,
Avadi, Chennai-600 065.

+1cc to M/S.J.Lakshmi Narayanan, Advocate Sr. 36505
+1cc to M/S.S.Meenakumari, Advocate Sr. 55943

WEB COPY

W.P.No.20844 of 2017

SR(CO)
VR(30/8/2017)