

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 9.8.2017

CORAM

**THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN**

**W.A.No.886 of 2017
and
C.M.P.No.12409 of 2017**

S.Sunitha

Appellant

Versus

- 1 The Director General
Central Reserve Police Force Block No.1
CGO Complex Lodhi Roa New Delhi 110 003
- 2 The Inspector General of Police (Personnel)
O/o. Directorate General
Central Reserve Police Force
Block No.1 CGO Complex Lodhi Road
New Delhi 110 003
- 3 The Deputy Inspector General
of Police (Establishment)
O/o. Directorate General
Central Reserve Police Force Block
No.1 CGO Complex Lodhi Road
New Delhi 110 003
- 4 The Deputy Inspector General
of Police (Administration)
O/o. the Addl. Director General of Police
Central Zone Central Reserve Police Force,
CRPF Bhawan HC-Block
Sector-I Saltlake
Kolkata West Bengal 700 106

5 The Depu Inspector General of Police
Recruit Training Centre
Group Centre Campus
Principal Central Reserve Police Force
Avadi Chennai 600 065

Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 19.6.2017 passed in W.P.No.15254 of 2017 on the file of this court.

For appellant : Mr.J.Lakshmi Narayanan

For respondent : Ms.S.Meenakumari, CGSC

JUDGMENT

(Judgment of the court was made by DR.G.JAYACHANDRAN, J.)

Heard the learned counsel appearing for the appellant and the learned Central Government Standing Counsel, who takes notice on behalf of the respondents.

2. The writ appeal is filed challenging the order passed by the learned Single Judge declining to grant the relief of retainment in the place where she is working.

3. It appears that when the appellant herein was sought to be transferred in the year 2016, in a routine way, viz., after completion of three years tenure in the present post, on her request, she was granted extension of one year period. However, when she was sought to be transferred in the year 2017, either on one pretext or the other, by way of filing the writ petitions, she attempted to avoid the transfer. In the present

writ petition, the learned Single Judge has recorded the conduct of the appellant and passed the following order:-

"This court is not entitled to entertain the instant writ petition, for the reason that the petitioner is unreasonably approaching this court repeatedly for no reason. First of all, when the petitioner came to this court with W.P.No.7233 of 2017 seeking to consider her representation dated 15.3.2017, she sought permission to withdraw the said writ petition and this court also dismissed the writ petition as withdrawn by order dated 24.3.2017. Subsequently, she filed W.P.No.8631 of 2017 challenging the very same impugned order. However, for the reason that the standing order stood superseded, she again sought permission to withdraw the writ petition and I have also dismissed the writ petition as withdrawn vide order dated 18.4.2017. Once again she has filed the present writ petition challenging the very same impugned order of transfer. But, this court is able to see that she had already made a representation to the respondents for extension of one year time and that was also granted in her favour. After enjoying the grant of extension, I do not find any justification at all for the petitioner to approach this court on some hyper-technical ground to thwart the

impugned order of transfer. Moreover, when the petitioner complains before this court that she is having gynaecological problem, the medical certificate produced before this court does not throw any light whatsoever as to the course of treatment taken by her.

2. The learned counsel for the petitioner also submitted that as per the CCL Rules, the petitioner is still entitled to serve in the present place, on the ground that her daughter is studying XII standard. But this court is not inclined to accept the said submission. When the petitioner is living with her family, her husband has to take care. Only a vague averment has been made that he is living in Kanyakumari, but nowhere it is mentioned that he has deserted or abandoned his family. Although the learned counsel for the petitioner brought to the notice of this court the judgment of the Apex Court in *Kakali Ghosh v. Chief Secretary, Andaman & Nicobar Administration & others*, CDJ 2014 SC 311 holding that the CCL Rules should be followed, in the present case, as mentioned above, when the petitioner already availed one year extension, she cannot take a ground that she is entitled to stay with her daughters till they complete their studies. Therefore, the writ petition fails and it is dismissed..."

4. We do not see any reason to interfere with the order passed by the learned Single Judge which is based on material records. At this juncture, the learned counsel appearing for the appellant, referring to an Office Memorandum dated 11.9.2008 issued by the Ministry of Personnel, Public Grievances & Pensions, would submit that the appellant is entitled to a child care leave for 730 days and therefore, her request for retainment may be considered on this ground.

5. Even now, it is not too late for the appellant to join in the new place and seek for such a leave in which event, it may be considered by the employer, if she is entitled to the same. With the above observation, the writ appeal is dismissed. No costs. The connected miscellaneous petition is also dismissed.

(H.G.R.,J.)(G.J.,J.)
9.8.2017.

Index:Yes/No
Internet:Yes/No
ssk.

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