

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.09.2017

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WRIT PETITION No.23770 of 2017

and

W.M.P.No.24993 of 2017

Jawahar Kumar

... Petitioner

Vs.

1.The Inspector General of Police (personnel),
Office of Directorate General,
Central Reserve Police Force,
Block No.1,CGO Complex,
Lodhi Road,New Delhi-110 003.

2.The Inspector General of Police,
Karnataka-Kerala(KK)Sector,
Central Reserve Police Force,
Group Centre,Doddaballapur Road,
Yelahanka, Bangalore-560 064.

3.The Commandant,
97 Bn Headquarters,
Group Centre, Central Reserve Police Force,
Avadi,Chennai-600 065.

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 & 2 to retain the petitioner in Chennai as prayed for in his representation dated 08.07.2017 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.P.Manoj Kumar

O R D E R

The relief sought for in this writ petition is for a

direction to direct respondents 1 & 2 to retain the petitioner in Chennai as prayed for in his representation dated 08.07.2017 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.

2. The learned counsel appearing for the writ petitioner made a submission that the writ petitioner has joined in Avadi, Tamil Nadu on 03.12.2013 and continuing for the past 3 years and 7 months. The writ petitioner got married on 05.06.2008 and now the couple is taking treatment for infertility in a hospital at Thirumullaivoyal, Chennai - 62. In this regard, the learned counsel for the writ petitioner urged this Court that standing order No.7/15 provides certain concessions for the employees to stay in the same station, if they are under medical treatment. Though the writ petitioner has made a representation to the 1st respondent on 08.07.2017, the learned counsel says that the representation has not been considered by the respondent and now the writ petitioner is transferred to Jammu & Kashmir.

3. This Court is of the view that the writ petitioner has already completed 3 years and 7 months of service in Avadi, Chennai. Thus, he is certainly due for transfer and accordingly, a routine administrative transfer was issued to the writ petitioner. The writ petitioner being a member of Disciplined Uniformed Force, periodical transfers are unavoidable and they are bound to obey the orders of administrative transfers.

4. The family circumstances and the personal inconvenience can never be claimed as a matter of right and it is for the public servant to make arrangement for taking care of the entire family members. On this ground, an administrative transfer cannot be interfered with.

5. This Court is unable to accept the grievances raised in this Writ Petition. With regard to the sufferings expressed by the writ petitioner, if any consideration is shown, 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 the Nation. Any compromise shown in this regard will affect the discipline of the force. 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 level 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

6. 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.

7. In respect of medical treatments, this Court is easily able to presume that adequate medical facilities will be certainly available in any Head Quarters of a State or in nearby places. 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.

8. 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.

9. 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.

10. In view of the fact that the writ petitioner has already served in Avadi, Chennai for 3 years and 7 months and now an order of transfer has already been issued to him, transferring him to Jammu & Kashmir, it is for the respondents to consider all the personal grievances of the writ petitioner submitted by way of representation and this Court cannot interfere in the day-to-day administration of the department and all such personal grievances are to be redressed only through the competent authority and in the event of not considering the same, it is left open to the writ petitioner to approach the higher authorities for redressing such personal grievances as raised in the representation.

11. In this view of the matter, no further adjudication on the grounds is required. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is also closed.

Sd/-

ASST. REGISTRAR

/TRUE COPY/

SUB ASST. REGISTRAR

To

1.The Inspector General of Police (personnel),
Office of Directorate General,
Central Reserve Police Force,
Block No.1,CGO Complex,
Lodhi Road,New Delhi-110 003.

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

+1 CC to Mr. J. Lakshmi Narayanan, Advocate SR.No.63763

W.P.No.23770 of 2017

VC (10/10/2017)



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