

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.08.2017

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

W.P.No.13932 of 2017 and WMP.Nos.15120 and 15121 of 2017

M.Vadivel

... Petitioner

Vs.

1.The Inspector General of Police,
Southern Sector, Central Reserve Police Force,
Road No.10C, Jubilee Hills,
Gayathri Hills, Hyderabad-500033.

2.The Deputy Inspector General of Police(Administration),
Southern Sector Headquarters,
Central Reserve Police Force,
Road No.10C, Jubilee Hills,
Gayathri Hills, Hyderabad—500033.

3.The Deputy Inspector General of Police,
Group Centre, Central Reserve Police Force,
Avadi, Chennai-600065.

...Respondents

Prayer : Petition filed under Article 226 of The Constitution of India praying to issue a writ of Certiorarified Mandamus to call for the records relating to the impugned order of the second respondent in No.T.IX.10/2017-SS-ADm-II dated 12.05.2017 and quash the same in so far as the posting of the petitioner is concerned and direct the respondents to rehabilitate the petitioner by providing lighter duty at Group Centre, Avadi, Chennai so as to enable him to avail medical treatment as enumerated in the Central Reserve Police Force Standing Order No.04/2011 dated 27.07.2011.

For Petitioner : Mr.J.Lakshmi Narayanan
For Respondents : Mr.K.Srinivasamurthy, Central Government
Standing Counsel

ORDER

The writ petitioner has filed this writ petition challenging the order of transfer vide proceedings dated 12.05.2017 transferring the writ petitioner from Avadi, Chennai to Chattisgarh.

2. On perusal of the transfer order it is stated that "all transfers in respect of the following ASIs (GD) who have completed / completing normal tenure at present location are hereby ordered with immediate effect as per details mentioned against each". It is an administrative transfer issued on account of the completion of normal tenure by the writ petitioner and therefore, there is no reason to consider the ground raised in this writ petition.

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3. The learned counsel appearing for the petitioner contended that the writ petitioner is suffering from certain functional incapacities and therefore, as per the guidelines issued by the respondents, he is eligible to

continue in the same station at Avadi, Chennai. Even as per the guidelines, the respondents issued certain concessions in order to follow by the officials but this will not preclude the respondents from effecting transfers on administrative ground. Administrative grounds. Transfers are incidental to service and more so, the condition of service. Thus, based on instruction/guidelines, the writ petitioner cannot move this writ petition by stating that he cannot be transferred from one place to another place. Place and post cannot be claimed as a choice by the employees and the transfer itself cannot be claim as a matter of right, once an order of appointment is accepted and transfer is incidental. In the interest of administration, the administrative transfers are issued and interference by the Courts in this regard is absolutely limited. Judicial review against the order of transfers are limited and only on exceptional circumstances, such order of transfers can be interfered with.

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 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 being 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 July, 2012, and he is continuing for about five 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.

6. 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 seven years and further continuance is certainly not desirable, since he is working in a disciplined Uniformed Force, i.e. CRPF.

7. 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 an uniformed service has to abide by the administrative orders more specifically of transfers.

8. 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.

9. 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.

10. 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.

11. In view of the above, no further consideration is required and accordingly, the writ petition stands dismissed. Consequently connected miscellaneous petitions are closed. No Costs.

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To

1.The Secretary,
Labour and Employment Department,
Fort St.George, Chennai-600 009.

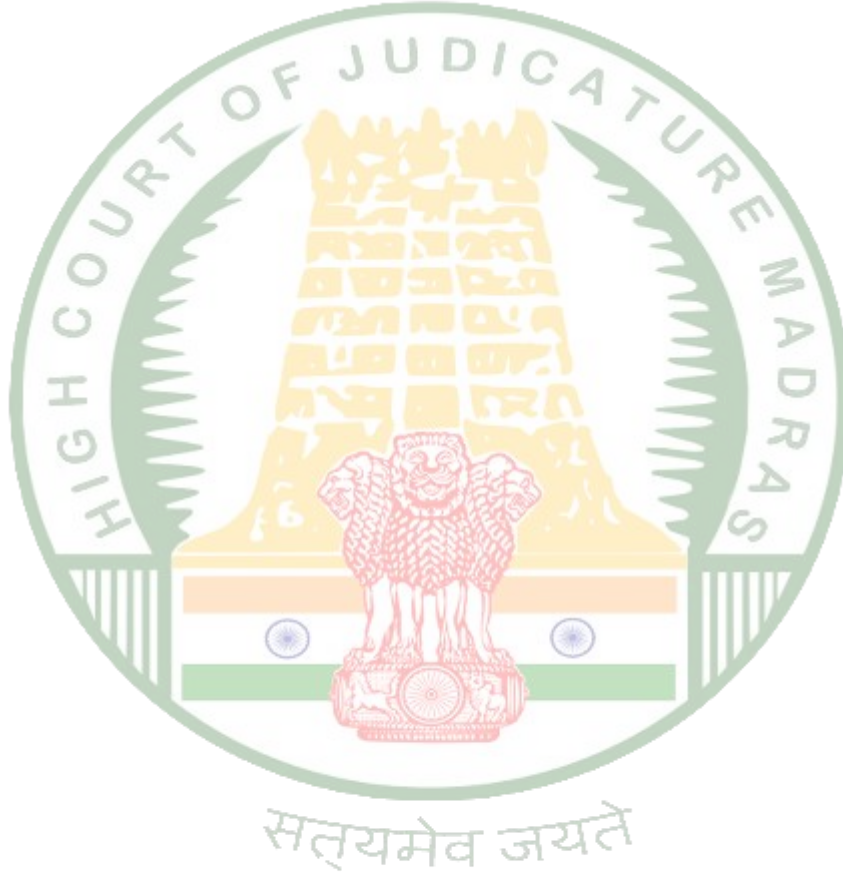
2.The Joint Director of Industrial Safety and Health-II,
Coimbatore District,
Coimbatore.



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S.M.SUBRAMANIAM,,J
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