

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.08.2017

CORAM :

THE HONOURABLE MR. JUSTICE S.M. SUBRAMANIAM

W.P. No. 15169 of 2017

and

W.M.P.No.16444 of 2017

S. Dakshinamurthy.

..Petitioner

Vs.

1.The Inspector General of Police,
Southern Sector, Central Reserve Police Force,
Road No.10C, Jubilee Hills,
Gayathri Hills, Hyderabad – 500 033.

2.The Deputy Inspector General of Police (Administration),
Southern Sector Headquarters,
Central Reserve Police Force,
Road No.10C, Jubilee Hills,
Gayathri Hills, Hyderabad – 500 033.

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

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus or a writ in the nature of Mandamus directing the respondents to rehabilitate the petitioner by providing him lighter duty at Group Centre, Avadi,

Chennai as enumerated in the Central Reserve Police Force standing Order No.04/2011 dated 27.07.2011.

For Petitioner : Mr. P. Manojkumar.

For Respondents : Mr. C.V. Ramachandramurthy,
Senior Panel counsel for Central Govt.

ORDER

The order of transfer transferring the writ petitioner from Avadi, Chennai to Orissa in proceedings No.04/2011 dated 27.07.2011, is under challenge in this writ petition.

2.The learned counsel appearing for the writ petitioner contended that the writ petitioner was initially appointed as Constable(Driver) in the year 1991 and was subsequently promoted as Head Constable(HC/DVR) on 02.12.2002. When the writ petitioner was serving in 18 Battalion stationed at Kulgam, Jammu and Kashmir on 24.12.2011, at about 22.15 hours when other cops have been sleeping in Motor Transport (M.T) Line of Unit, one Mr. Sanjay Kumar Rai of the unit has fired from his own rifle and on his colleagues from close proximity on their cot. During that incident three of the colleagues of the writ petitioner died, instantly and the writ petitioner sustained grievous bullet injury in his abdomen, right leg and right thigh region. He was admitted as in-patient in Sher-I-Kashmir Institute of Medical

Sciences, Srinagar and under gone treatment for a considerable length of time. Thereafter, he was brought to Chennai and admitted in MIOT Hospital and underwent right above knee amputation.

3.The learned counsel for the writ petitioner contended that by virtue of serious injuries sustained by the writ petitioner, he has to be considered for rehabilitation. Rehabilitation Schemes are being issued by the respondent time and again. Standing Order No.4/2011 dated 27.07.2011, relates to rehabilitation of force personnel. In accordance with the Rehabilitation Scheme, the writ petitioner ought to have been allowed to continue in the same place at Avadi, Chennai.

4.On a perusal of the entire Standing Orders, this Court is of the opinion that the Standing Order relating to rehabilitation of Force personnel is no way connected with the transfer of personnel from one place to another. Rehabilitation is one aspect and the transfer of personnel is another aspect. Rehabilitation of the employee is very much required, especially in Uniformed Services, when they suffer certain injuries during the course of performing their duties. But, transfer can never be the right and the place and post can never be claimed as a right.

5. Under the Standing Orders, rehabilitation can be claimed by the personnel when they sustained injuries during the course of performing their duties. But, place and post can never be claimed as a matter of legal right. On rehabilitation or during the course of rehabilitation, if the Board finds that a particular person is eligible to perform certain kind of light duty, then it is for the authorities to allot such light duties and post him in the appropriate place. In such circumstances, no personnel in the Uniformed Service can claim that either he should be posted in Chennai or any other place of his choice. In other words, choice of post or place are certainly not available to the public servants.

6. Thus, the arguments advanced by the learned counsel for the writ petitioner that as per the Standing Orders issued on rehabilitation of Force Personnel, the writ petitioner ought to have been accommodated only at Avadi, Chennai, deserves to be rejected. However, it is for the authorities to find out the nature of concession to be shown to a particular employee and accordingly, allot him any place or post. The Constitutional Courts cannot interfere with the day-to-day administration so as to cause any chaos in the running of the administration in a peaceful manner. Further, Standing Order

No.4/2011 dated 27th July, 2011, never prevents the authorities from transferring and posting personnel from one place to another place. Contrarily, it provides a scheme for rehabilitation of Force personnel, which is to be undertaken by the competent authorities and this Court has no second opinion in this regard. All the personnel who sustained certain injuries on account of performing their duties have to be shown indulgence in providing rehabilitation in respect of the job responsibilities, but, not in respect of transfer and posting.

7.This being the view of this Court, all the Standing Orders are the subject matters to be considered only by the competent authorities and 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 twelve years and further continuance is certainly not desirable, since he is working in a disciplined Uniformed Force, i.e. CRPF.

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8.Transfer of an employee is an administrative 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.

9. 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 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.

10. 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 /instructions given in the form of circulars or orders, 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. Certain concessions are provided in order to make the employees more accommodative and for effective functioning of 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.

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11. 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.

12. The learned counsel for writ petitioner further submits that the writ petitioner has joined in the present station in Avadi, Chennai in the year 2012 and continuing in the same place for about five years and further submitted that an earlier order passed in W.P.No.16008 of 2017 dated 27.06.2017 in respect of a direction issued to consider their case by referring the writ petitioner therein to Rehabilitation Board. However, it is left open to the authorities to consider the same in this regard after referring the writ petitioner to the Rehabilitation board, but this court cannot provide any correct opinion in this regard. With regard to personal grievances, of the petitioner it is for the respondent to consider the same in accordance

with the instructions/guidelines.

Accordingly, the writ petition stands dismissed.
Consequently connected Miscellaneous Petition is also dismissed.
However, there is no order as to costs.

22.08.2017

Index: Yes/ No

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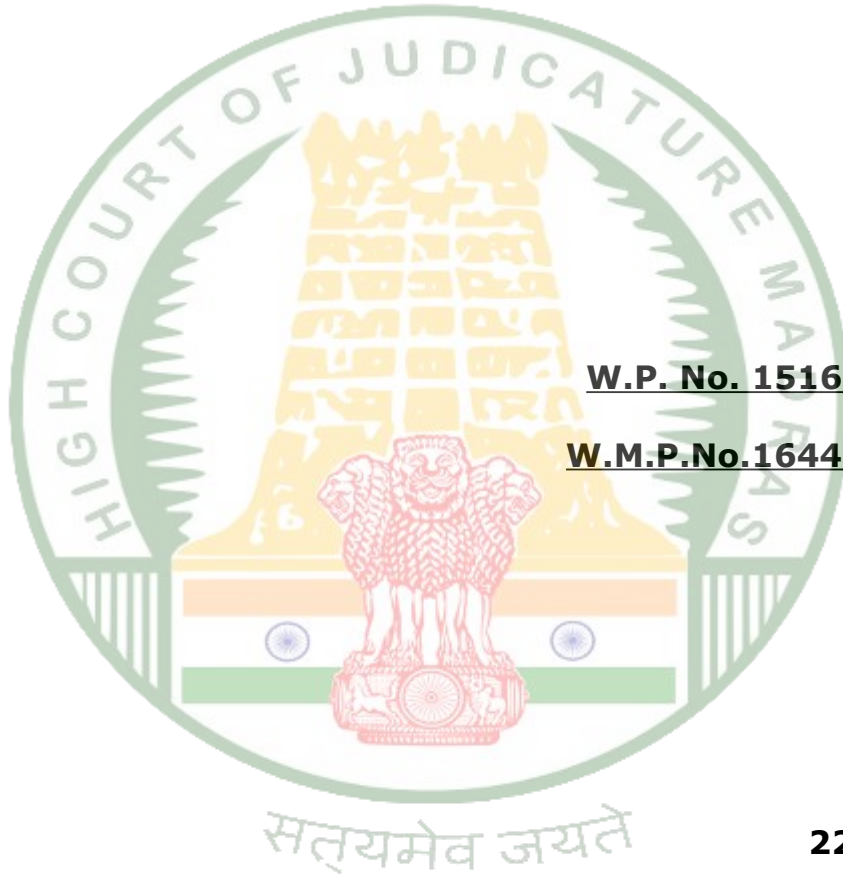
To

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