

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.08.2017

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.17112 of 2017
and
W.M.P. No.18584 and 18585 of 2017

Philip Jacob

...Petitioner

-Vs-

1. The Director General
Central Reserve Police Force,
Lodhi Road, New Delhi.
2. The Inspector General of Police,
Central Reserve Police Force,
Southern Sector, Hyderabad,
3. The Range Deputy Inspector General of Police,
Group Centre, Central Reserve Police Force,
Avadi, Chennai - 600 065.
4. The Commandant
Central Reserve Police Force,
42, BN Rajamandri
Andhra Pradesh

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for direction to call for the records relating to the Transfer

order in telex message No.T.IX-1/20117-42-EC dated 13.04.2017 issued by the 3rd respondent in so for item No.66 is concerned and quash the same and to direct the respondent to post the petitioner in any other place in the southern sector.

For Petitioner : Mr.M. Md. Ibrahim Ali

For Respondent : Mr.T.L. Thirumalaisamy,
(Central Govt. Standing Counsel)

ORDER

The order of transfer, transferring the writ petitioner from 42 BN at Rajamandri, Andhra Pradesh to 18 BN Jammu & Kashmir is under challenge in this writ petition.

2. Before going into the facts of the case, this Court is of the view that the legal principles in the matter of transfer is well defined by the Hon'ble Supreme Court of India and by the High Courts. The writ petition filed challenging the administrative orders of transfer cannot be entertained in a routine manner. Writ can be issued against the orders of transfer only on exceptional circumstances if the order of transfer was issued by an authority without Jurisdiction or an incompetent authority issued the order or if the transfer order is in

violation of the statutory rules in force or an allegation of mala fides are raised. In case of raising allegation of mala fides against the authority, it is necessary that such an authority against whom allegations are raised is to be impleaded as a party in the writ proceedings in his personal capacity. In the absence of any one of such legal grounds, no order of transfer can be subjected to judicial review under Article 226 of the Constitution of India.

3. The learned counsel appearing for the petitioner relying on the standing order issued by the respondent on 31.01.2014, he contended that the writ petitioner is taking treatment for White Dot in his skin from Schieffelin Institute of Health Research & Leprosy Center Karigiri, Katpadi, Vellore Dist. Tamil Nadu. Hence, he is advised to continuously take treatment for white dot in the skin in the above said institution and the medicine is available here at low cost other than the outside and necessarily he is continued in the present station.

4. It is further contended that the Jammu & Kashmir Climate condition which is cause to increase white dot in the skin. Apart this, the petitioner is undertaking treatment in the Government Dental Hospital, Chennai. By virtue of these grounds, the writ petitioner

should be allowed to continue in the present station. Therefore the petitioner filed this writ petition praying for direction to call for the records relating to the Transfer order in telex message No.T.IX-1/20117-42-EC dated 13.04.2017 issued by the 3rd respondent in so for item No.66 is concerned and quash the same and to direct the respondent to post the petitioner in any other place in the southern sector.

5.The learned counsel appearing for the respondents opposed the contentions raised by the writ petitioner on the ground that the respondents themselves admitted the fact that the writ petitioner suffers from white dot skin disease and taking treatment Schieffelin Institute of Health Research & Leprosy Center Karigiri, Katpadi, Vellore Dist. Tamil Nadu. Further he can take treatment to the place where he has been posted for getting suitable treatment. But he cannot be allowed to approach this Court seeking extension of time for administrative transfers. Such being the case, there is no reason whatever, to challenge the order of transfer by the writ petitioner. This apart, the counsel for the respondents stated that administrative transfers are routine orders issued in the interest of administration and any intervention in the administrative transfers will certainly hamper the peaceful running of the very administration.

6. This apart, the writ petitioner is continuing in 42 BN Rajamandri for about five years and further continuance will cause inconvenience not only to the Department, but also to the other police personnel who are waiting for transfer to Rajamandri (A.P) from other States. Under these Circumstances, this Court has to consider that whether the order of transfer, transferring the writ petitioner from 42 Bn Rajamandri (A.P) to 15Bn Jammu & Kashmir, is in accordance with law or not.

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 a uniformed service has to abide by the administrative orders more specifically of transfers. In respect of medical treatments, this Court is easily able to presume that adequate medical facilities will be certainly available in any State 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.

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. In the case on hand, the writ petitioner is continuously working for about five years in at Rajamandri in Andhra Pradesh. In fact, it is not preferable to allow the writ petitioner to continue in Rajamandri, Andhra Pradesh furthermore. Thus, the writ petition and the grounds raised therein deserve no merit consideration.

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. The Writ petitioner is continuing at Rajamandri in Andhra Pradesh from the year 2012. He is serving in the present station for about 5 years. Thus, the administrative transfer issued transferring to the writ petitioner from 42Bn Rajamandri (A.P) to 18Bn Jammu & Kashmir is in order and there is no infirmity.

11. In view of the legal principles discussed above, no further consideration is required on the grounds raised in the writ petition. With regard to the medical treatment, the same cannot be considered by this court as against the order of the administrative transfer.

12. In view of the above, this writ petition stands dismissed. However, there is no order as to costs. Consequently, connected miscellaneous petitions are also closed.

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Index: Yes/No

Internet: Yes/No

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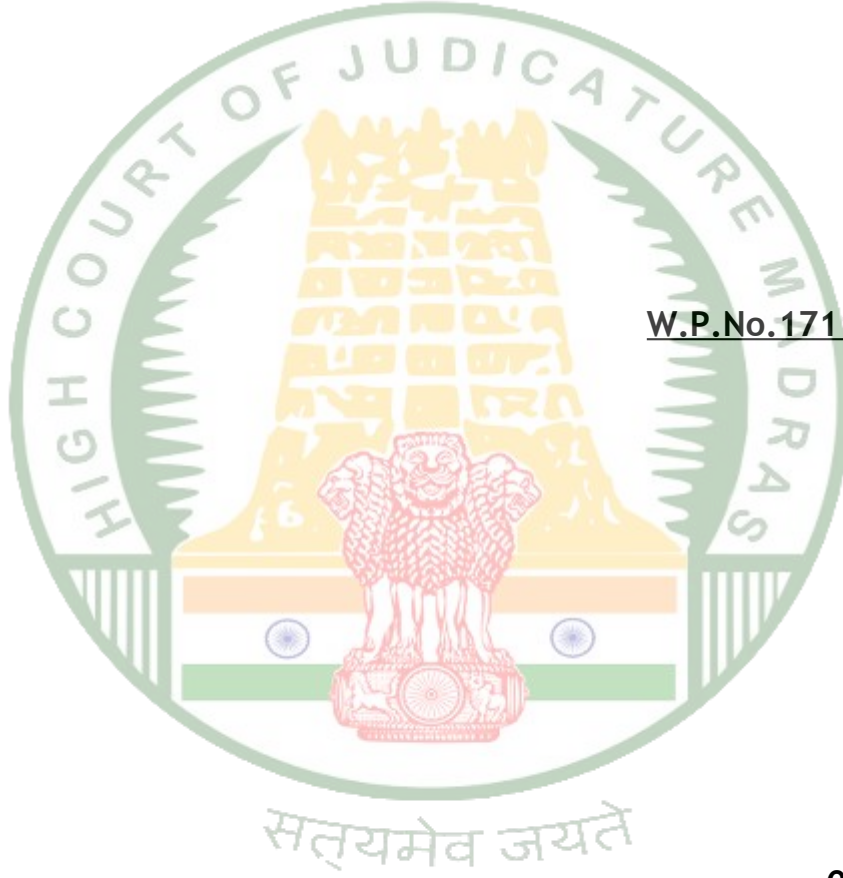
To

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