

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 08.08.2017
CORAM
THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
W.P.No.17182 of 2017
and
M.P.Nos.18667 & 18668 of 2016

K. Panchavarnam

...Petitioner

-Vs-

1. The Director General,
Directorate General, CRPF,
C.G.O. Complex,
Lodhi Road, New Delhi - 110 003.
2. The Inspector General of Police,
Rapid Action Force (RAF), CRPF,
East Block, R.K. Puram,
New Delhi - 110 066.
3. The Deputy Inspector General of Police,
Rapid Action Force, CRPF,
Taleja, Navi Mumbai - 410 208.
4. The Commandant,
105 RAF, CRPF,
Vellalore, Coimbatore- 641 111.
5. The Commandant,
251, Battalion (Bastariya Bn) CRPF,
Bilaspur, Chattisgarh

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for direction to call for the records pertaining to order of attachment dated 30.06.2016 issued by the 5th respondent in proceedings No.T-IX-4/17-241-EC-I and quash the same and directing the respondents not to relieve the petitioner from 105 RAF, CRPF, Coimbatore to 241 Battalion, CRPF, Bilaspur (Chhattisgarh).

For Petitioner : Mr.Dr. R. Gouri

For Respondents : Mr.T.L. Thirumalaisamy,
(Central Government Standing Counsel)

O R D E R

The order of transfer, transferring the writ petitioner 105 RAF, CRPF, Coimbatore to 241 Battalion, CRPF, Bilaspur (Chhattisgarh) 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/her 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 15.12.2008, it is contended that the writ petitioner is suffering by chronic pain in abdomen, dyspepsia with chronic diarrhea with sigmoid wall thickening and taking treatment in the K.G. Hospital, Coimbatore. Thus, she should be treated as Shape-2(T-12) Category. Accordingly, she should be allowed to perform light duties in the center.

4. It is further contended that petitioner who is having two daughters studying in Avatar Public School, Chettipalayam, is living alone since the petitioner's husband separated from her. Hence, she is not in a position to leave her daughters anywhere at this stage. Further more, the learned counsel for the writ petitioner submitted that the writ petitioner has submitted an application for voluntarily retirement. By virtue of these

grounds, the writ petitioner should be allowed to continue in the present station. This apart, the learned counsel contended that the petitioner has ulcerative colitis with mild to moderate severity and accordingly, the authorities ought to have considered the case of the writ petitioner sympathetically for her continuance in Coimbatore. Therefore the petitioner filed this writ petition praying for direction to call for the records pertaining to order of attachment dated 30.06.2016 issued by the 5th respondent in proceedings No.T-IX-4/17-241-EC-I and quash the same and directing the respondents not to relieve her from 105 RAF, CRPF, Coimbatore.

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 by chronic pain in abdomen, dyspepsia with chronic diarrhea with sigmoid wall thickening and taking treatment in the K.G. Hospital, Coimbatore. Further she can take treatment to the place where he has been posted. However, she cannot be allowed to approach this Court seeking extension of time to stay in the same station. 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 105RAF, CRPF, Coimbatore for about three years and further continuance will cause inconvenience not only to the Department, but also to the other personnel, who are waiting for transfer to Coimbatore from other States. Under these Circumstances, this Court has to consider that whether the order of transfer, transferring the writ petitioner from 105 RAF, CRPF, Coimbatore to 241 Battalion, CRPF, Bilaspur (Chhattisgarh), 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 an 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 three years in Coimbatore. In fact, it is not preferable to allow the writ petitioner to continue in Coimbatore, 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 Coimbatore from the year 2014. Till now, She is serving in the present station. Thus, the administrative transfer issued for transfer to the writ petitioner from 105 RAF, CRPF, Coimbatore to 241 Battalion, CRPF, Bilaspur (Chhattisgarh) 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. Further, the learned counsel appearing for the writ petitioner submitted that the writ petitioner has submitted an application for voluntarily retirement. However, no such application is enclosed along with the writ petition. In the absence of any such application, this court is not in a position to consider the same. However, it is left open for the petitioner to pursue the application before the competent authority in accordance with rules.

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.

Sd/-

Assistant Registrar(CS VI)

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सत्यमेव जयते

Sub Assistant Registrar

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To:

1. The Director General,
Directorate General, CRPF,
C.G.O. Complex,
Lodhi Road, New Delhi - 110 00.
2. The Inspector General of Police,
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Bilaspur, Chattisgarh

+1 cc to M/s.Dr.R.Gowri Advocate for petitioner
sr 571113

+1 cc to Mr.T.L.Thirumalaisamy Advocate sr 56960

W.P.No.17182 of 2017

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