

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.08.2017

CORAM

**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM**

W.P.No.1992 of 2017 &  
M.P.No.1994 of 2017

Bindu Mathew  
W/o Jose Prakesh  
Inspector/GD (Mahila)  
No.993350011  
105 RAF/CRPF  
Vellalore,  
Coimbatore-641 11.

..Petitioner

Versus

1. The Director General  
Directorate General, CRPF  
C.G.O. Complex  
Londhi 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.

..Respondents

**Prayer:** Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned movement order dated 23.03.2017 issued by the fourth respondent and quash the same in so far as the petitioner is concerned and direct the respondents to rehabilitate the petitioner by providing lighter duty either at Group Centre, Avadi, Chennai or at Group Centre, Bangalore 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 : M/s.R.Meenakshi

For Respondents : Mr.S.Makesh  
Additional Central Government  
Standing Counsel(ACGSC)

**ORDER**

The petitioner has come forward with this Writ Petition for quashing the transfer order issued by the fourth respondent dated 23.03.2017 and direct the respondents to rehabilitate the petitioner by providing lighter duty either at Group Centre, Avadi, Chennai or at Group Centre, Bangalore 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.

2.The learned counsel for the petitioner contended that the writ petitioner is working in Coimbatore and has been transferred to Nagpur, Maharashtra.

3. Before going into the facts of the case, this Court is of the view that the legal principle 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.

सत्यमेव जयते

4. The learned counsel appearing for the writ petitioner contended that while the writ petitioner practicing for the Rapid Action Force Inter Battalion Athletic Competition scheduled to be held at 105 RAF, Coimbatore from 22.06.2016, she sustained serious injury on her right leg on 08.06.2016, and it was found that there was severe tear with retraction at the Distal Achilles Tendon. She also underwent

major surgery on 13.06.2016 in that regard at Coimbatore. Though she was advised to avoid cold climate and to continue physiotherapy and muscle strengthening for the next one year, she has been transferred to 213 (M) Bn Nagpur, by the Director General Office Order dated 28.10.2016. Further, the petitioner has been categorized Shape-2(T-24) and light duty by the Review Medical Board.

5.This affidavit was filed on 25<sup>th</sup> January, 2017. The learned counsel appearing for the respondents contended that by virtue of the interim order granted by this Court, the writ petitioner is continuing in the same station from the date of her joining on 18.7.2015.

6.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 as the writ petitioner is categorized under SHAPE-2, she was not suffering from any serious illness and therefore, she cannot claim immunity from administrative transfers. Administrative transfers are issued in respect of all the categories and the employees are placed under various categories and, wherever they are posted, they will be allowed to

perform the same duties and responsibilities assigned with the particular category, i.e. to say, the writ petitioner even in Nagpur, will be allowed to perform the duties and responsibilities applicable to SHAPE-2 category. 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.

7.This apart, the writ petitioner is continuing in Coimbatore, from 2015 onwards and further continuance will cause inconvenience not only to the Department, but also to the other police 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 Coimbatore to Nagpur, is in accordance with law or not.

8.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 all the Head Quarters of the State and 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 /instructions given in the form of circular 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.

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 subordinate 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.

9. In the case on hand, the writ petitioner is continuously working in Coimbatore and by virtue of an interim order granted by this Court, for about two years. 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.

11. Accordingly, the writ petition stands dismissed. However, there is no order as to costs. Consequently, connected miscellaneous petition is closed.

**07.08.2017**

rpa

To

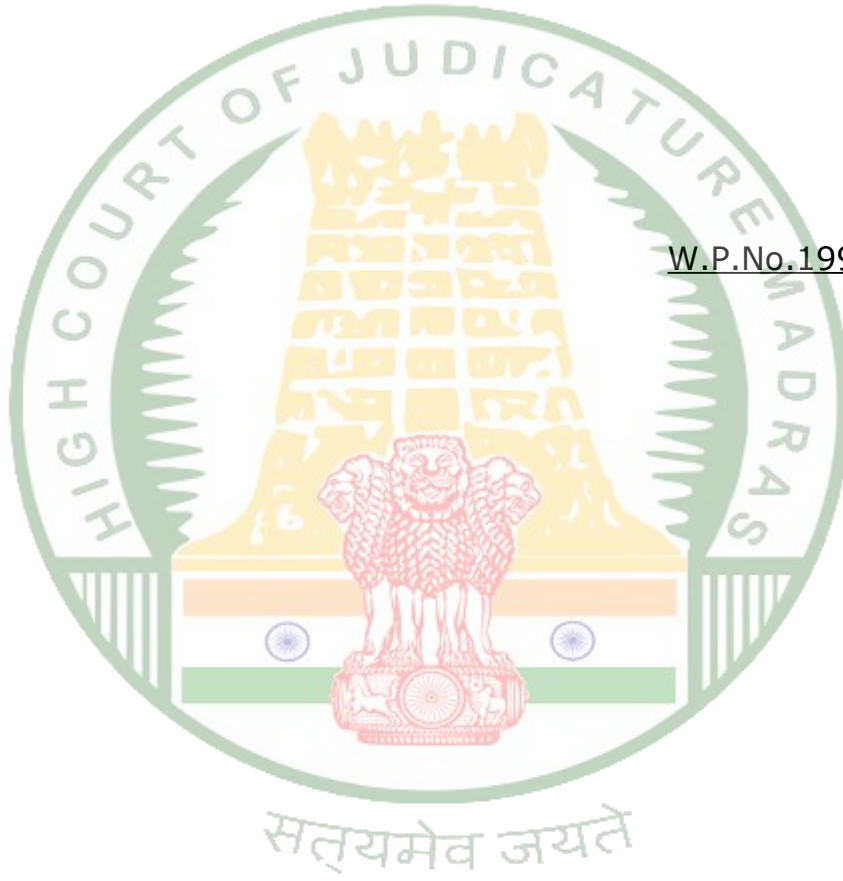
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**S.M.SUBRAMANIAM,J**

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