

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.07.2017

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THE HONOURABLE Mr.JUSTICE S.M.SUBRAMANIAM

W.P.No.6429 of 2015
and
M.P.Nos.1 & 3 of 2017

S. Sivakumar

... Petitioner

Vs

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

2.The Director General of Police,
Central Reserve Police Force,
CGO Complex, Lodhi Road,
New Delhi -110 003.

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records in respect of the Transfer Order in Signal Message No. T.IX-04/2014-ADM-2 dated 24.02.2015 passed by the 2nd respondent and quash the same and consequently direct the respondents not to transfer the petitioner herein before the expiry of 4 years tenure stipulated in Standing Order No.01/2014.

(Prayer amended as per Order dated 13.03.2015 made in M.P.No.2 of 2015 in W.P.No.6429 of 2015)

For Petitioner : Mr.N.Vijayakumar

For Respondents : Mr.G.Baskaran

WEB COPY
ORDER

The order of transfer issued pursuant to the signal message on 24th February 2015 transferring the writ petitioner from Avadi to Chattisgarh 217-Battalion, is under challenge in this writ petition.

2. The writ petitioner was transferred from Avadi unit to Chattisgarh 217-Battalion. The learned counsel appearing for the writ petitioner contended that prior to his joining in Avadi

unit, he was serving in Assam 142 Battalion North East and was permitted to join in Avadi unit on 27th September 2012. Admittedly, the writ petitioner is continuing in Avadi unit from 27.09.2012.

3. The learned counsel urged this Court that the Director General of CRPF issued a Standing Order in No.T.IX-1/2013-Estt. dated 31st January 2014. The policy of transfer is provided in para 5 of the Standing Order. Para 5 (iii), deals with tenure, which reads as follows:-

"Tenure:

A person shall remain in his zone for his entire career till he is promoted to the Gazetted Rank subject to his performance, conduct and organisational requirements. After promotion to the rank of a GO this policy shall not be applicable to him.

(a) Tenure With in the Zone

i. Tenure in Unit : 4 years
(Field/Static)

ii. Tenure in any State : Maximum two tenures continuously.

Sub class (viii) :

"(viii) However, the eligibility conditions as laid down above may be relaxed in very deserving cases by Sector IGP but such number should not exceed 2% of the strength in various ranks in such static formations. Circumstances deserving relaxation would be as follows:-

(a) Serious medical condition of own as well as immediate family members. (list of similar illness/ diseases is attached as appendix-A)

(b) Personnel injured in active (operational) duties can be given softer posting immediately."

Page No.15 para (xxiv)

" (xxiv). Whenever any transfer is ordered prematurely i.e. Prior to completion of normal tenure, reasons justifying pre-mature transfer shall be mentioned in the transfer order."

4. Citing all these guidelines, the learned counsel advanced his arguments by stating that the guidelines provided were violated, while issuing the transfer order to the writ petitioner, transferring him from Avadi to Chanttisgarh 217 Battalion. This apart, based on an unanimous complaint a disciplinary enquiry was conducted and it was found that the complaint was false and the writ petitioner has not committed

any misconduct and irregularities as stated in the unanimous letter. Therefore, the impugned order was issued at the relevant point of time in order to harass the writ petitioner.

5. However, learned counsel appearing for the petitioner contended that the father of the writ petitioner is suffering from various ailments and he has to take care of his father, who is staying along with his family.

6. May that it be, an order of transfer on administration grounds is an incidental to service and more so, a condition of service. A person accepting an order of appointment, is accepting the conditions of transfer and more specifically, the CRPF being a specialised Disciplined Armed Force and, there cannot be any compromise on disciplinary matters. Even, as per the Standing Order the tenure prescribed is four years. Since the writ petitioner has already served in hard areas prior to his transfer to Avadi units. Even as per the file, the writ petitioner had joined in Avadi unit on 27th September 2012 and till date he is continuing the same station and already completed 4 years and 10 months of tenure. Therefore, at this point of time, the question of considering the tenure of 4 years as stipulated in the Standing Order does not arise at all.

7. In respect of ailment of his aged father, this Court is not inclined to consider the same in view of the fact, every aged father of a son may have the same problem and such consideration, if extended to the writ petitioner, it will paralyse the entire administration. Such pleas of any of the personnel in the Disciplined Forces like CRPF cannot be entertained at all. It is for the writ petitioner to make required arrangements for the father and he cannot take this ground more specifically, against the order of administrative transfers. Ailment of an aged person is most common in our great nation and, the writ petitioner cannot seek any exception in this regard. It is his duty to look after his father the way he likes, by providing a better treatment to his father.

8. However, this Court is no way concerned in these aspects and the Authorities cannot look into these aspects while effecting the order of transfer on the administrative grounds.

9. Another point raised by the writ petitioner is that the order is not reasoned as per the Standing Order. Transfer need not contain any reason since it is not a punishment but in the impugned signal order. It is stated that the transfer is effected on administrative grounds, is sufficient if it is stated that the transfer is on the administrative grounds and the writ petitioner cannot expect an officer to assign all the reasons for his transfer, and no such legal requirement is contemplated.

10. In view of the fact that the transfer is an incidental to service, it is not necessary that all the reasons considered by transferring authorities need to be stated in the transfer order.

11. Learned counsel for the respondents opposed the contention of the writ petitioner by stating that the transfer order was issued by CRPF, which is most Disciplined Force and it is for the authorities to decide the transfer and postings for effective administration.

12. Furthermore, the writ petitioner had already completed four years and 10 months in Avadi and thus, he cannot take shelter under the Standing Orders.

13. In this view of the matter, no further consideration is required in this writ petition and accordingly, the writ petition stands dismissed. However, there is no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

may a

To

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

2.The Director General of Police,
Central Reserve Police Force,
CGO Complex, Lodhi Road,
New Delhi - 110 003.

+1cc to Mr.N.Vijayakumar, Advocate, S.R.No.49518

+1cc to Mr.G.Baskaran, Advocate, S.R.No.49559

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and
M.P.Nos.1 & 3 of 2017

VGI(CO)
CA(03/08/2017)