

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 30.01.2017

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THE HONOURABLE MR.JUSTICE M.SATHYANANARAYANAN

Writ Petition No.32559 of 2016
and
WMP.No.28211 & 28212 of 2016

M.Pichandi

.. Petitioner

Vs.

- 1.The Inspector General of Police (Personnel),
Office of Directorate General,
Central Reserve Police Force,
Block No.1, CGO Complex,
Lodhi Road, New Delhi-110 003.
- 2.The Inspector General of Police,
Southern Sector, 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.
- 4.The Deputy Commandant (Administration),
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 a writ of Certiorarified Mandamus, calling for the records relating to the impugned order of the fourth respondent dated 06.09.2016 and to quash the same and direct the respondents to rehabilitate the petitioner by providing lighter duty as enlisted in the Central Reserve Police Force Standing Order No.7/99 dated 06.05.1999.

For Petitioner : Mr.J.Lakshmi Narayanan

For Respondents: Mr.C.G.Kumar
Standing counsel

O R D E R

By consent, the Writ Petition is taken up for final disposal.

2.The facts leading to the filing of the present petition are as follows:

The petitioner at present is working as a Fitter in the Grade of Constable and according to him, he had completed 19 years and 5 months of service and served in hard areas namely, Srinagar, Assam and Manipur. In the year 2012, he was posted to the present station, namely, Group Centre, Avadi. During the month of December 2014, he had severe abdominal pain and also had blood stained vomiting and admitted in the Christian Medical College and Hospital, Vellore and he was diagnosed with hyper-coagulable state or thrombophilia. It can be dangerous when the said conditions are not properly identified and treated. The petitioner is also taking "warfarin tablet" which prevents blood clots and its continuous usage is associated with a significant increase in the risk of death after traumatic injuries. The petitioner in the light of the physical disabilities, was categorized as Shape-Two P-2 (T-24) for a period of 24 weeks temporarily. Taking into consideration of his health conditions, the doctors deferred surgery and advised him to do light work and avoid strenuous exercises to avoid injuries. However, to the shock and surprise of the petitioner, he is issued with a Movement Order, i.e., transferred to 212 Battalion at District Baster in Chattisgarh. It is a naxalite area. He has sent a representation dated 03.03.2016 to the second respondent through proper channel. Since there was no response, the petitioner has come forward to file this writ petition.

3.Challenging the impugned order of transfer passed by the fourth respondent dated 06.09.2016, the learned counsel for the petitioner has drawn the attention of the Standing order No.7/99, more particularly, which has been replaced by 4/2004 followed by 4/2011 (amended Standing Order) and would submit that in the light of the illness being suffered by the petitioner, he has been assigned lighter duty as advised by the doctors at CMC Hospital, Vellore and Rajiv Gandhi Government General Hospital, Chennai and he is also inclined to give voluntary retirement. In view of the same, the petitioner may be retained to the present place of posting and prays for an appropriate orders.

4.Per contra, the learned counsel for the respondents would submit that transfer is incidental and being a member of the uniformed services bound to obey the order and as per the order passed by this Court dated 19.09.2016, he has been placed in the present place and as per the Movement Order, he can join duty where he will only be assigned with light duty as he did in the present post and he can get all the medical facilities at Baster, Chattisgarh. Therefore, the petitioner cannot seek any relief in regard to transfer and prays for dismissal of the petition.

5.This Court has carefully considered the rival submissions and also perused the materials placed before it.

6.It is not disputed by the respondents as to the illness and physical health conditions of the petitioner and however, it is the stand of the official respondents that the petitioner being a member of the uniformed service, his service is required as a Fitter and he has been transferred to Baster, Chattisgarh where the battalian has it's own hospital and the petitioner can avail the very same medical treatment from there or from nearby Composite Hospital, Bilaspur or Station Hospital, Raipur. The petitioner in this regard made a representation dated 03.03.2016 to the second respondent through proper channel. In the light of the order dated 19.09.2016 passed by this Court, the Movement Order has been deferred. In the facts and circumstances of the case, the petitioner is permitted to give one more representation along with the copy of this order as well as the representation dated 03.03.2016 through proper channel to the second respondent, within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the second respondent is directed to consider his representation on merits and in accordance with the Standing Order enumerated above and pass orders within six weeks thereafter and also to communicate the decision taken to the petitioner and till such time, the respondents shall defer the decision as to the transfer of the petitioner to some other place.

7.This Writ Petition is disposed of with the above directions. Consequently, connected Miscellaneous Petitions are also closed. No costs.

Sd/-
Assistant Registrar

//True Copy//

DP

Sub Assistant Registrar

To

1. The Inspector General of Police (Personnel),
Office of Directorate General,
Central Reserve Police Force,
Block No.1, CGO Complex,
Lodhi Road, New Delhi-110 003.
2. The Inspector General of Police,
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3. The Deputy Inspector General of Police,
Group Centre,
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Avadi, Chennai-600 065.
4. The Deputy Commandant (Administration),
Group Centre,
Central Reserve Police Force,
Avadi, Chennai-600 065.

+1cc to Mr.Kumar, Advocate, S.R.No.5777

+1cc to Mr.Lakshmi Narayanan, Advocate, S.R.No.5661

SS(CO)

RS(15/02/2017)

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