

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.03.2017

CORAM:

THE HON'BLE MR. JUSTICE T.RAJA

W.P.No.38930 of 2016

R.Settu

.. Petitioner

Vs

- 1.The Director General of Police,
CRPF, CGO Complex,
Loadhi Road,
New Delhi - 110 003.
- 2.The Inspector General of Police
(Training), Training Directorate,
CRPF, Sector - 1,
New Delhi - 110 066.
- 3.The Inspector General of Police,
Southern Sector CRPF,
Road No.10C, Jubilee Hills,
Near MLA/MPs Colony,
Gayathri Hills, Hyderabad - 500 033.
- 4.The Deputy Inspector General of Police,
Recruit Training Centre (RTC),
GC Campus, CRPF, Avadi,
Chennai - 600 065.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus to call for the records pertaining to the Inter Office Note dated 27.10.2016 of the fourth respondent in proceeding No.J.II.1/2016-Estt.2 and his subsequent movement order dated 31.10.2016 relieving the petitioner on transfer from Recruit Training Centre to 216 BN, CRPF, Nuapada (Odhisia) and quash the same and forbear the respondents from transferring the petitioner from Recruit Training Centre (RTC), CRPF, Avadi to 216 Battalion CRPF, Nuapada (Odisha) and retain him in RTC, Avadi.

For petitioner : Dr.R.Gouri

For Respondents : Mr.K.Raju, CGSC

O R D E R

Challenging the Inter Office Note dated 27.10.2016 of the fourth respondent / the Deputy Inspector General of Police, Recruit Training Centre (RTC), Avadi, Chennai, and also his subsequent movement order dated 31.10.2016 relieving the petitioner on transfer from Recruit Training Centre (RTC), Avadi, CRPF, Chennai, to 216 Bn, CRPF, Nuapada (Odisha), the petitioner has filed this writ petition seeking to quash the same with a further direction to forbear the respondents in transferring him from the said place.

2. Dr.R.Gouri, learned counsel for the petitioner submitted that on 30.08.2009, he along with his wife met with a road accident at his home town, Arcot, Vellore District, and in the said accident, he sustained multiple injuries whereas his wife also sustained compound fracture of both left and right leg. Consequently, his wife underwent treatment in Government Vellore Medical College Hospital and thereafter, for better treatment, she was transferred to MIOT Hospital, Chennai, where she underwent 13 surgeries. His wife was also issued with disability certificate certifying 60% disability by the Government Vellore Medical College Hospital and she is always depending upon others for moving outside and inside of the home.

3. It is further submitted that the petitioner has also undergone surgery on 20.01.2017 for Fistulectomy/piles and he was discharged on 04.02.2017 by the Government Hospital, Walajapet, and he was also advised by the Doctor to take rest for six weeks vide certificate dated 08.02.2017. Therefore, due to such prevailing situation, she pleaded, the petitioner's presence is required to take care of his wife and his children. Hence, on humanitarian ground, she pleaded, a direction may be issued to the respondents to keep the impugned movement order in abeyance for a period of six months.

4. Per contra, Mr.K.Raju, learned Central Government Standing Counsel for the respondents, by drawing the notice of this Court an order passed by this Court in W.P.No.21638 of 2015, dated 19.08.2016, dismissing the writ petition filed by the petitioner challenging the transfer order dated 21.04.2015 as infructuous, submitted that the consequential movement order cannot be legally challenged by the petitioner. Adding further, learned Central Government Standing Counsel would submit that the present writ petition is wholly not maintainable.

5. I fully agree with the above said submissions made by the learned Central Government Standing Counsel. However, peculiar facts and circumstances brought to the notice of this Court by the learned counsel for the petitioner gives a grim situation, for, both the petitioner and his wife have become victim of circumstances as stated below:

Firstly, on 30.08.2009, the petitioner and his wife have met with an accident at Arcot Road, Vellore, which resulted in multiple injuries to the petitioner and also compound fracture of both left and right leg to his wife. After the accident, the petitioner's wife took treatment in Government Vellore Medical College Hospital and thereafter, for better treatment, she was taken to MIOT Hospital, Chennai, where she had undergone 13 surgeries. The petitioner's wife was also issued with a disability certificate certifying 60% disability, that shows she is in need of his support to take care of her as well as his children. Citing these reasons, when the petitioner sought for transfer, he was also transferred from 83 Battalion to RTC, CRPF, Avadi, Chennai. However, while he was pursuing Inspector Promotion Course at Coimbatore, he was issued with an transfer order dated 17.04.2015 transferring him to 216 Battalion CRPF, Chhattisgarh, by the third respondent.

6. No doubt, the above said transfer order was also unsuccessfully challenged in W.P.No.21638 of 2015, which has been subsequently dismissed by this Court as infructuous on 19.08.2016. Thereafter, as could be seen from the discharge summary issued by the Government Hospital, Walajapet, the petitioner underwent surgery for Fistulectomy/piles on 20.01.2017 and discharged on 04.02.2017 and he was advised by the Doctor to take rest for six weeks.

7. It is trite law that transfer is an incident of service and an employee working on a transferable post cannot claim, as a matter of right, that he should be retained in a particular post or at a particular place. It is the choice of the employer to determine how long the service of an employee is required in a particular post or at a particular place. The order of transfer does not affect any legal rights of the employee and the Court or Tribunal cannot interfere with an order of transfer or posting, which is made in public interest or on administrative exigency. However, if the order of transfer is passed violating the statutory rule or with malafide, then such an order of transfer could be questioned, warranting interference of the Court or Tribunal.

8. Therefore, in view of the settled legal position that there is no indefeasible right an employee to claim right of posting at one particular place, this Court is not inclined

to interfere with the impugned movement order, however, considering the peculiar facts and circumstances of the case that he had undergone surgery for Fistulectomy/piles on 20.01.2017 and that the Doctor has also advised him to take rest for six weeks, this Court, on humanitarian grounds, grants three months time from today to report for duty at the transferred place as stated in the impugned movement order dated 31.10.2016. Till such time, the respondents are directed to keep the impugned movement order in abeyance.

9. In fine, for the reasons stated above, the writ petition is disposed of. No Costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

rkm

To

- 1.The Director General of Police,
CRPF, CGO Complex,
Loadhi Road,
New Delhi - 110 003.
- 2.The Inspector General of Police
(Training), Training Directorate,
CRPF, Sector - 1,
New Delhi - 110 066.
- 3.The Inspector General of Police,
Southern Sector CRPF,
Road No.10C, Jubilee Hills,
Near MLA/MPs Colony,
Gayathri Hills, Hyderabad - 500 033.
- 4.The Deputy Inspector General of Police,
Recruit Training Centre (RTC),
GC Campus, CRPF, Avadi, Chennai - 600 065.

+1cc to Dr.R.Gouri,Advocate sr.18408

+1cc to K.Raju,Advocate sr.18362

W.P.No.38930 of 2016

ss(24/3/2017)