

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 12.01.2017

CORAM

THE HONOURABLE Mr.JUSTICE M.SATHYANARAYANAN

W.P.No.42074 of 2016
and W.M.P.No.35987 of 2016

Pramod K.K

.. Petitioner

Vs

Union of India rep. by
1.The Inspector General,
Central Industrial Security Force,
South Sector Head Quarters,
Chennai-9.

2.The Assistant Commandant,
CISF Unit,
BDL Bhanur,
Hyderabad 502 305.

3.The Assistant Commandant,
CISF Unit,
ChPT [Chennai Port Trust],
Chennai-9.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Certiorari to call for the concerned records relating to the impugned order No.C11018/CISF/Ch.PT/QM/FA/2016-8519 dated 14.11.2016 passed by the 3rd respondent and to quash the same.

For Petitioner : Ms.M.Bhargavi

For 1st Respondent : Mr.A.Kumaraguru
Sr. Panel Counsel for
Central Govt.

O R D E R

By consent, the main writ petition itself is taken up for final disposal.

2. The petitioner joined as a constable in the CISF [Central Industrial Security Force] in the year 2000 and was
<https://hcservices.ecourts.gov.in/hcservices/>

posted to work at VSA, Port Blair, etc. and due to nature of his job, he subject to transfer to various places. Petitioner would further aver that while he was posted to work in CISF Unit, BDL, Bhanur, in the year 2013, with family accommodation and thereafter, he was posted to work at CISF, ChPT [Chennai Port Trust], in the order dated 04.01.2016 and he was ordered for immediate movement to the newly posted area.

3. The petitioner would further aver that he could not get admission for his son in Kendriya Vidyalaya, Chennai. In this regard, a representation dated 31.03.2016, was made to the Commandant, CISF, ChPT for retention of family accommodation at Bhanur, till some solution is founded and it is followed by a reminder dated 12.05.2016 to the second respondent, considering for retention of family accommodation at CISF Unit, Bhanur.

4. It is also the stand of the petitioner that he is suffering due to allergic rhinitis and mild asthma, sinusitis and also undergone septoplasty on 28.02.2014. CISF medical board, vide proceedings dated 08.05.2014, advised the petitioner to avoid exposure to cold/dust, duties in strenuous physical activities. The petitioner also applied for alternative post to the CISF Unit at Bhanur, though he was transferred to ChPT. He has been given accommodation and therefore, prayed for retention and however, the said request was rejected by the third respondent, vide order dated 11.10.2016, and by order dated 14.11.2016, calling upon him to vacate the family accommodation failing which, he has to pay penal rent @ Rs.5,382/- per month w.e.f.01.05.2016. The petitioner left with no other option, vacated the family accommodation on 08.11.2016 and to his shock and surprise, he was called upon to remit the arrears of his alleged overstay at Bhanur @ Rs.5,382/- per month and challenging the legality of the same, he has come forward with this writ petition.

5. This Court has entertained the writ petition vide interim order, on 05.12.2016 and has deferred the recovery proceedings. Learned Special Panel Counsel also accepted notice on behalf of the first respondent and sought time to get instructions.

6. Learned counsel appearing for the first respondent would submit that the petitioner is purely praying for transfer with family accommodation and admittedly, he has overstayed in the accommodation given to him at CISF Unit, Bhanur, despite the fact that he was called upon to vacate and deliver the possession, he cannot do so and therefore, he was called upon to pay the rent or his over stay for six months @ Rs.5,382/- per month, aggregating a sum of Rs.32,292/- in instalments and further contended that the petitioner is yet to apply for accommodation and as such, he prays for dismissal of the writ petition.

7. Learned counsel appearing for the petitioner would submit that for want of accommodation, he has shifted his family to Kerala and his son was admitted in a local school and his prayer for transfer to CISF, Bhanur has been rejected on 16.09.2016 by the third respondent, without citing any reason and prays for allowing of the writ petition.

8. This Court has considered the rival submissions and also perused the materials placed on record.

9. The petitioner despite his transfer to ChPT did not vacate the premises located at CISF Unit, Bhanur, Andhra Pradesh. Therefore, he was called upon to pay a sum of Rs.5,382/- per month for a period of overstay of six months. Though the learned counsel appearing for the petitioner made a vehement and forcible submission submitting that he is not able to shift the family, after transfer to ChPT, the fact remains that he did not apply for accommodation.

10. The only grievance expressed by the petitioner is that since ChPT is a polluted area, his physical and mental condition may be get worsen. However, it is brought to the knowledge of the Court, the handling of coal and iron ore have been shifted from ChPT to a nearby port and as such, the apprehension expressed by the petitioner, is wholly unfounded.

11. Learned counsel appearing for the petitioner also made an alternative, instead of deducting a sum of Rs.5,382/- per month, a lesser sum may be deducted out of his salary.

12. This Court heard the submission of learned Special Panel Counsel appearing for the first respondent also. Since the petitioner has failed to make out any case on legal basis, this Court is of the view that it is not in a position to come to the aid of the petitioner.

13. However, taking into consideration the health condition of the petitioner, coupled with the prayer for reduction of instalment amount, this Court is of the view that the petitioner shall pay a penal rent @ Rs.2,000/- per month commencing from February 2017, less the amount already deducted, if any and it is also open to the petitioner, to apply for transfer from CISF, ChPT either to High Court, Madras or to Chennai Petro Chemicals Limited, Manali. As and when the application is submitted, it may be sympathetically considered. Insofar as the rejection of the request for transfer, vide order of the third respondent dated 16.09.2016, it is always open to the petitioner to workout his

remedies in accordance with law.

14. The Writ Petition stands dismissed, subject to the above observation. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

gya

To

1.The Inspector General,
Central Industrial Security Force,
South Sector Head Quarters,
Chennai-9.

2.The Assistant Commandant,
CISF Unit, BDL Bhanur,
Hyderabad 502 305.

3.The Assistant Commandant,
CISF Unit, ChPT [Chennai Port Trust],
Chennai-9.

+1cc to Mr.A.Kumara guru,Advocate sr.3284

+1cc to M/s.M.Bhargavi, Advocate sr.3323

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