

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No.10926 OF 2017

Dated:30.03.2017

Between:

V. Suryanarayana, S/o. Somappadu,
49 years, Occ: Constable, Central
Industrial Security Force (CISF),
Salarjung Museum, Hyderabad

.. Petitioner

And

The Union of India, rep., by its Secretary,
Ministry of Home Affairs, New Delhi
and others

.. Respondents



The Court made the following:

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ORDER:

Heard learned counsel for the petitioner and learned Standing Counsel for the respondents.

2. Petitioner contends that he was transferred from Central Industrial Security Force (CISF) Unit located at Salarjung Museum, Hyderabad, to Oil and Natural Gas Corporation (ONGC), Mumbai, by proceedings, dated 20.01.2017, in terms of the which, he is to be relieved from duty on 31.03.2017. Contending that on 03.03.2017, he submitted representation for retention in Hyderabad and the same was not acted upon, the petitioner is before this Court.

3. Learned counsel for the petitioner contends that the petitioner is suffering from rheumatic heart disease and is undergoing treatment and requires continuous medical check up and therefore he should be continued in CISF, Hyderabad, for some more time. He further submits that at least if petitioner is accommodated for one year, it would help him for taking proper medical treatment and transferring him to Mumbai causes lot of inconvenience and hardship. He therefore submits that the respondents ought to have considered the petitioner's representation, dated 03.03.2017, before he is going to be relieved.

4. Learned Standing Counsel appearing on behalf of learned Assistant Solicitor General, on instructions, submits that the petitioner earlier filed W.P.No.10788 of 2016, when he sought to be

transferred by order, dated 12.02.2016, and vide order, dated 31.03.2016, this Court directed the authorities to consider the request of the petitioner for retention and he was retained for one year. The petitioner is again making such a request even though his earlier request was considered favourably. He further submits that the petitioner has completed five years tenure, whereas ordinarily a Constable working in CISF is disturbed at every three years from one place to another place. Medical facilities are available in Mumbai and therefore the petitioner cannot complain of his transfer to Mumbai.

5. It is not in dispute that the petitioner was transferred and posted in Hyderabad in August, 2012, and he has completed five years of tenure and is liable for transfer. Earlier, the petitioner was sought to be transferred on 12.02.2016, but as a consequence to the directions of this Court issued in W.P.No.10788 of 2016, the petitioner was accommodated for one more year. Indeed, Mumbai has got excellent medical facilities to treat the petitioner's ailment and that there is no illegality in the order of transfer.

6. Learned counsel for the petitioner also fairly submits that the petitioner was granted personal hearing and he explained his problems before the competent authority, but so far no retention is granted. It would mean that the competent authority is not satisfied with the claim made by the petitioner for further retention in Hyderabad, as he is working in CISF, and it is not proper on the part of the petitioner to request for retention for one more year and he cannot continue to resist the transfer, more so, his posting is only to Mumbai, where abundant medical facilities are available.

However, if the petitioner has already ventilated his grievance, it is for the competent authority to consider, but no direction can be issued for his retention in Hyderabad on the grounds mentioned in the affidavit filed in support of the Writ Petition.

7. The Writ Petition is accordingly dismissed leaving it open to the petitioner to pursue his grievance before the competent authority for his retention. There shall be no order as to costs.

Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

Date:30.03.2017
KH



P. NAVEEN RAO, J