

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No.14144 OF 2017

Dated:20.04.2017

Between:

B. Anand, S/o. B. Jacob, aged
about 42 years, R/o.Flat No.113-C,
CISF New Complex, Visakhapatnam
Steel Plant, Visakhapatnam

.. Petitioner

And

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

.. Respondents



The Court made the following:

THE HON'BLE SRI JUSTICE P. NAVEEN RAO**WRIT PETITION No.14144 OF 2017****ORDER:**

Petitioner is working as Constable in Central Industrial Security Force. Having regard to the transfer policy, petitioner was subjected to inter zonal transfer in the year 2016 and was transferred to Mumbai. At that stage, petitioner submitted representation with a request to retain him for one year on the ground that his mother is sick and she requires medical treatment. Having regard to the said request, he was retained for a period of one year and the order of transfer to Mumbai was deferred. In terms of the undertaking given by the petitioner on the transfer order of 2016, he is now relieved to report to the place of posting.

2. This Writ Petition is filed contending that his son is now entered into X class and in accordance with the transfer policy as noted in the Circular No.53 of 2011, dated 20.12.2011, request for retention for one year can be made if child of employee is studying X class. Since the son of the petitioner is studying X class, the petitioner made representation for retention in Visakhapatnam for one more year. Alleging that no action is taken on the said representation and on the contrary, he is relieved to report to the transferred place, this Writ Petition is filed.

3. It is no doubt true that there is a provision incorporated in the Transfer Guidelines to accept the request for retention. But these are guidelines, which are not enforceable. They are for the purpose of regulating the transfer and not enforceable to contend that those guidelines have to be strictly implemented and in terms

thereof, the petitioner should be retained for one more year ignoring the facts of a given case, as in this case. Earlier, petitioner worked in Visakhapatnam for a long time and in the recent past, he has completed three years of service and he was subjected to transfer and by now it is four years. Therefore, petitioner is liable to be transferred even according to the transfer policy.

4. Admittedly, on his own request for retention for one year, the petitioner was retained. In his request for retention, he has clearly stated that his transfer should be deferred till March, 2017 and he can be relieved in the month of April, 2017. Thus, having given such an undertaking which probably enabled the petitioner for retention in Visakhapatnam, he cannot now turn around and ask for further retention for one more year by relying on Clause No.XIII of the Circular No.53. Thus, no relief as sought for can be granted to the petitioner in this Writ Petition.

5. The Writ Petition is accordingly dismissed. However, it is open to the competent authority to consider the request of the petitioner for retention notwithstanding the dismissal of the Writ Petition. There shall be no order as to costs.

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

P. NAVEEN RAO, J

Date:20.04.2017

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