

*** IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Judgment reserved on: August 16, 2016
Delivered on: April 03, 2017

+ W.P.(C) 4215/2016

CT/GD JAGAT RAM & ORS Petitioners
Through: Mr.Virender Singh Kadian, Adv.

versus

UNION OF INDIA & ORS. Respondents
Through: Mr.Abhay Prakash Sahay, Advocate.
Mr.S.S.Sejwal, Law Officer, CRPF.

CORAM:

HON'BLE MS. JUSTICE INDIRA BANERJEE
HON'BLE MR. JUSTICE V.KAMESWAR RAO

JUDGMENT

INDIRA BANERJEE, J

1. In this writ petition, the petitioners have challenged the signal order dated 22.3.2016, issued by the Director General, Central Reserve Police Force (CRPF) and Signal Order No. T-IX-54-2016-NS-EC-IV(SOZ) dated 03.05.2016, issued by the Inspector General, Northern Sector, CRPF, whereby the petitioners have been transferred to different Special Operational Zones in Chhattisgarh.

2. The order of transfer has been challenged on the ground that the petitioners have been transferred prematurely on completion of just five months at their present place of posting at Group Centre, CRPF, Gurgaon and 122 Battalion at Delhi.
3. It is the case of the petitioners, that on completion of their normal tenure of more than eight years in field areas at Jammu and Kashmir, the petitioners Nos. 1 to 13 were transferred from 121 Battalion and 187 Battalion to Group Centre, CRPF, Gurgaon, Haryana and the petitioner No.14 was transferred from 187 Battalion to 122 Battalion at Delhi, vide order dated 13.11.2015 of the Inspector General, Northern Sector.
4. In the counter affidavit, it is stated that the Bastar region of Chhattisgarh, is amongst the most sensitive areas of India, which faces internal security threats in the form of Left Wing extremism and 27 CRPF Battalions are deployed in the said region to fight Left Wing extremists or naxalites.
5. It is stated that the respondents face difficulties in rotation of personnel posted in these 27 Battalions, as persons transferred to these Battalions are reluctant to go due to high operational commitments. It is further stated that none of the 27 Battalions deployed in the Bastar region of Chhattisgarh, are under the jurisdiction of the Inspector General, Northern Sector, CRPF. As such, the respondent No.2, being the Directorate General,

CRPF, having administrative jurisdiction over the force as a whole, has taken over the responsibility of transferring personnel to these 27 Battalions.

6. Since January, 2015, about 14661 personnel have been transferred to the Bastar region and about 9500 persons who have completed their tenure, have been transferred out of the Bastar region.
7. It is further contended by the respondents that as per paragraph 15 of the Standing Order No.7/2015, the respondent No.2 might issue any order of transfer overriding the transfer policy, i.e., Standing Order No.7/2015 due to operational, medical, administrative or any other exigency.
8. The transfers are due to operational exigencies. Learned counsel appearing on behalf of the respondent has rightly argued that the respondent No.2 is superior in rank to the respondent No.3 with wider administrative powers. The impugned order dated 22.03.2016, does not suffer from any legal infirmity.
9. It is stated that due to re-affiliation of units deployed in the Bastar region, it had become difficult to rotate personnel out of Chhattisgarh, as a result of which, personnel posted in units deployed in Bastar region remained posted there for years, much longer than their specific tenure. This is not an instance

of a single transfer or a few stray transfers, 2036 personnel from static offices and Battalions therefore, moved to the Bastar region in public interest.

10. It is well settled that orders of transfer are not ordinarily interfered with by the Court exercising jurisdiction under Article 226 of the Constitution of India. In ***Shilpi Bose Vs. State of Bihar*** reported in AIR 1991 SC 532, the Supreme Court held:

“Courts should not interfere with a transfer order which are made in public interest and for administrative reasons unless the transfer orders are made in violation of any mandatory statutory rule or on the ground of mala fide. A Government servant holding a transferable post has not vested right to remain posted at one place or the other, he is liable to be transferred from one place to the other. Transfer orders issued by the competent authority do not violate any of his legal rights. Even if a transfer order is passed in violation of executive instructions or orders, the Courts ordinarily should not interfere with the order instead affected party should approach the higher authorities in the Department.”

11. In ***Union of India and Others Vs. S.L. Abbas*** reported in AIR 1993 SC 2444, the Supreme Court held as under:-

“Who should be transferred where, is a matter for the appropriate authority to decide. Unless the order of transfer is vitiated by mala fides or is

made in violation of any statutory provisions, the Court cannot interfere with it.”

“.... Guideline however does not confer upon the Government employee a legally enforceable right.”

12. In *National Hydroelectric Power Corporation Ltd. Vs. Shri Bhagwan and Anr.* Reported in (2001) 8 SCC 574 held that:

“Unless an order of transfer is shown to be an outcome of malafide exercise of power or stated to be in violation of statutory provisions prohibiting any such transfer, the courts or the tribunals cannot interfere with such orders, as though they were the appellate authorities substituting their own decision for that of the management.

13. In *Major General J.K. Bansal Vs. Union of India and Others* reported in (2005) 7 SCC 227, the Supreme Court held:

“The scope of interference by courts in regard to members of armed forces is far more limited and narrow. It is for the higher authorities to decide when and where a member of the armed forces should be posted. The Courts should be extremely slow in interfering with an order of transfer of such category of persons and unless an exceptionally strong case is made out, no interference should be made.

14. This Court exercising jurisdiction under Article 226 of the Constitution of India does not sit in appeal over orders of transfer. Orders of transfer cannot be interfered with even if the

same are in violation of guidelines or executive instructions, in the absence of malafides as held by the Supreme Court in Shilpi Bose (supra). No case of malafides in issuance of the order of transfer has been made out. We find that there are no grounds made for interference with the order of transfer, which is in administrative interest.

15. The writ petition is accordingly dismissed.

INDIRA BANERJEE, J

V.KAMESWAR RAO, J

April 03, 2017

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