

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.01.2018

CORAM:

THE HONOURABLE MR. JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR. JUSTICE RMT.TEEKA RAMAN

W.A.No.187 of 2018 and C.M.P.No.1310 of 2018

R.Arumugam

... Appellant

Vs

1. The Director General,
CRPF, CGO Complex,
Lodhi Road,
New Delhi-110 003.
2. The Inspector General of Police,
Southern Sector CRPF,
Road No.10 C, Jubilee Hills,
Near MLA/MPs. Colony,
Gayathri Hills,
Hyderabad-500 033.
3. The Deputy Inspector General of Police,
Group Centre, CRPF,
Avadi, Chennai-56.
4. The Commandant,
19, Battalion, CRPF,
R.S.P.Trainees Hostel,
Sector-5, Rourkela,
Odisha-769 002.

... Respondents

Prayer : Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 07.08.2017 made in W.P.No.14093/2017 by a learned Single Judge.

W.P.No.14093 of 2017:

Petition filed under Article 226 of the constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records pertaining to transfer order dated 12.05.2017 issued by the 2nd respondent in proceedings No. T.IX.10/2017-SS-Adm-II and quash the same in so far as petitioner concerned and forbear the respondents from transferring the petitioner from Group Centre CRPF Avadi to 19 Battalion Odisha and retain him

in Group Centre CRPF Avadi or in other Establishments of CRPF at Chennai.

For Appellant :: Ms.R.Meenakshi

For Respondents :: M/s.S.Meenakumari

JUDGMENT

(Judgment of the Court was pronounced by HULUVADI G.RAMESH, J.)

The Writ Appeal is directed against the Order dated 07.08.2017 made in W.P.No.14093/2017 by a learned Single Judge.

2. The Writ Petition has been filed by the petitioner seeking to issue a Writ of Certiorari thereby quashing the transfer order dated 12.05.2017 issued by the 2nd respondent and forbear the respondents from transferring him from Group Centre, CRPF, Avadi to 19 Battalion, Odisha and retain him in Group Centre, CRPF, Avadi or in other establishments of CRPF at Chennai.

3. According to the petitioner, he joined the Central Reserve Police Force as Safai Karmachari on 18.5.1996 and he had undergone Constable Upgradation Course and thereafter, his designation was changed as Constable/Safai Karmachar and he had served in units deployed at various places in our country. At present, he is serving in the office of the 3rd respondent. While so, the 2nd respondent has transferred him to 19 Bn. CRPF, Odisha by order dated 12.5.2017. According to the petitioner, he is diagnosed for HCV RNA (+). Thus, he was categorized under SHAPE-3 and as such, he should be allowed to perform light duties in the centre. Therefore, on medical grounds, he was transferred to Group Centre, Avadi from Assam and he is under continuous medical treatment in the MIOT Hospital at Chennai. Hence, the present transfer order is against the provisions of the Standing Orders relating to Transfer in so far as the CRPF personnels are concerned.

4. After hearing the rival submissions made on either side, the Single Judge of this Court dismissed the Writ Petition by Order dated 07.08.2017 and aggrieved over the same, the petitioner is before this Court again with this Writ Appeal.

5. When the matter is listed today under the caption, ''for admission'', the learned Counsel for the appellant submitted that the appellant is undergoing haemodialysis thrice in a week in MIOT Hospital, Chennai, being a Central Government Scheme Department approved Hospital through the Composite

Hospital, CRPF, Avadi, Chennai-65. Further, the MIOT Hospital vide Certificate dated 18.4.2017 has certified that he is a known patient of accelerated hypertension, HCV Positivity and Chronic Kidney Disease Stage V and undergoing regular Haemodialysis thrice weekly. The approximate cost for the dialysis per month will be Rs.24,674/- (13 dialysis per month as per CGHS rate) apart from Medication, Erythropoietin and other necessities including investigations. The learned Counsel further submitted that following the interim stay granted in similar circumstances, the learned Single Judge of this Court has granted stay of the transfer order in this matter also. However, at last, the learned Single Judge of this Court, dismissed the writ petition on the ground that the petitioner is working in Avadi from 2012 on wards.

6. Learned Counsel for the respondents submitted that there is no error in the order passed by the learned Single Judge of this Court and prays for dismissal of the Writ Appeal.

7. Considered the submissions made on either side and We have also carefully gone through the materials placed on record.

8. In the instant case, it is seen that though the appellant has worked in various places, since 2012 onwards, he is working at Avadi, Chennai. It is pertinent to note that the principles in the matter of transfer are well defined by the Hon'ble Supreme Court of India and the Writ Petitions filed challenging the transfer orders on administrative grounds cannot be entertained in a routine manner. But, sympathy and medical conditions need proper consideration, without acting on mere technicalities in the matter of transfer. In the case on hand, the Medical documents of the petitioner disclose that initially, he was undergoing haemodialysis thrice in a week apart from other health problems and thereafter, he has undergone renal transplantation from deceased donor for which post medical care is very much essential. Hence, in order to save a life of a person, we are of the view that his case may be considered on sympathetic and humanitarian grounds.

9. Under such circumstances, we hereby direct the 2nd respondent to cancel the order of transfer dated 12.5.2017 effected against the appellant herein with a further direction to the 2nd respondent not to transfer the appellant herein during the year 2018 as it may take one year time for his recovery from renal transplantation. Thereafter, his case may be considered for transfer to any other place as per the norms during the next occasion, if he is found fit.

10. With the above observations and directions, the Writ Appeal is disposed of. No costs. Consequently, connected Miscellaneous Petition is also closed.

s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

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To

1. The Director General,
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+1 CC to Mr.S. Meena Kumari, Advocate sr 5986.

+1 CC to Mr.R. Meenkshi, Advocate sr 5868.

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GMI (CO)
SP(22/02/2018)