

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 23.07.2018
Coram

The Hon'ble Mr. Justice Satrugana Pujahari

Writ Petition No.18594 of 2018
and
W.M.P.No.21938 of 2018

A. Mohan

...Petitioner

Vs.

1. The Deputy Inspector General,
CISF S/Z Head Quarters, Chennai.

2. The Assistant Commandment,
CISF Unit, RGN Sriperumbudur,
Kancheepuram District.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorari to call for records, viz., No.E/38014/CISF/RGN/2018/2082, dated 14.07.2018 issued by the second respondent and to quash the same.

For Petitioner : Mr.P.Rajkumar

O R D E R

Heard Mr.P.Rajkumar, the learned counsel appearing for the petitioner.

2. This Writ Petition has been filed by the petitioner, challenging his order of transfer from CISF Unit RGN, Sriperumbudur to Bangaluru on the ground that the same is mala fide and also not permissible in law. Though transfer has been effected on the ground that, there is surplus staff, none of the persons have been brought to the Station recently. Further, it is case of the petitioner that, he is at the verge of his retirement and hardly 1 year and 11 months to go and the guidelines says that in the last pay scale of service, the persons working is required to be placed within the Home Zone. Thus, the petitioner came to challenge the order of transfer on the aforesaid grounds.

3. The learned counsel appearing for the petitioner firstly would submit that the petitioner earlier filed a Writ Petition in W.P.(MD) No.19080 of 2016, against his non-promotion before the Madurai Bench, wherein, a direction was given to consider his promotion within six months, which is going to expire in September 2018, for that, the Authority, being vindictive, has passed such transfer order. Secondly, it is contended that the petitioner has only one year and 11 months left before his superannuation, and at least, by considering this fact, the respondents could have avoided passing the transfer order in the best administration of the Office, moreso when the Policy stipulates to post an employee during the aforesaid period within his home zone.

4. The learned counsel appearing for the petitioner lastly contended that the petitioner's family are staying in Chennai and at this juncture, if he is directed to be transferred to Bangalore, he will be put to undue hardship. Setting out all these aspects, the petitioner has made a representation to the first respondent, dated 14.07.2018, to re-consider his order of transfer. In such premises, the learned counsel submits that, notice be issued and pending disposal of the Writ Petition, stay the order of transfer.

5. It is a well settled law that transfer is not only an incident of service and the Authority, being the best to decide about the posting of a person, and when the same passed on administrative ground due to exigencies of service, the Court cannot interfere with the same, unless, the Court finds that such an order is passed with a mala fide intention or in violation of the Rules of services and guidelines for transfer and also without any justification. Be that as it may, considering the fact that the petitioner comes out with a case that the transfer is actuated with mala fide intention and taking note of the fact that at the last pay scale of his service, he is required to be placed within the Home Zone and as such, contrary to the guidelines prescribed, and in this regard, he has also made a representation to re-consider his transfer, this Court instead of issuing notice, in this Writ Petition, proceeds to dispose of the same with a direction to the first respondent to consider such representation of the petitioner dated 14.07.2018 in the light of the guidelines, if any, in this regard and pass necessary orders within 15 days henceforth. Till an informed and considered decision is taken on such representation, the petitioner shall not be disturbed from his present place of posting. No costs. Consequently, connected Writ Miscellaneous Petition is closed. Copy of this order be

produced before the respondent concerned by the petitioner within a week hence positively.

Sd/-
Assistant Registrar(CCC)

//True Copy//

To

1. The Deputy Inspector General,
CISF S/Z Head Quarters, Chennai.
2. The Assistant Commandment,
CISF Unit, RGN Sriperumbudur,
Kancheepuram District.

+lcc to Mrs.G.Sangeetha, Advocate sr.no.48745

Writ Petition No.18594 of 2018

nr 24/7/2018



WEB COPY