

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2018

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.No.34245 of 2018,
WMP Nos.39787 and 39789 of 2018

Satish Chandra Verma, I.P.S.,

...Petitioner

-vs-

- 1.Union of India Represented by the
Secretary to Government of India,
Ministry of Home Affairs (MHA)
North Block, Central Secretariat,
New Delhi 110 001.
- 2.Directorate General, CRPF
Represented by the Director General (DG) CRPF
Block No.1, C.G.O.Complex,
Lodhi Road, New Delhi - 110 003.
- 3.Training Directorate, CRPF
Represented by the
Additional Director General (ADG) Training, CRPF
East Block No.10, Level 7, R.K.Puram,
New Delhi 110 066.
- 4.The Registrar,
Central Administrative Tribunal,
Madras Bench, Chennai.

.... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, calling for records relating to the order of the 4th respondent made in O.A.No.310/1662 of 2018 dated 19.12.2018.

For Petitioner : Mr.L.Chandrakumar

For Respondents: Mr.V.Chandrasekaran
Senior Panel Counsel for R1 to R3

O R D E R

[Order of the Court was delivered by
T.SIVAGNANAM, J.]

This writ petition has been filed challenging the order passed by the Central Administrative Tribunal, Madras Bench, in the prayer made by the petitioner for grant of an interim order permitting him to travel abroad.

2. In the Original Application filed before the Central Administrative Tribunal, the proceedings of Government of India, Ministry of Home Affairs, IPS - II Section, dated 14.12.2018 was impugned. The petitioner sought for permission to undertake a private foreign visit to United States of America and France along with his wife to visit his son in the United States and daughter in France from 23.12.2018 to 18.01.2019. It appears that the department sought for vigilance clearance in terms of DoP&T Circulars. By the said proceedings dated 14.12.2018, the petitioner's request was not cleared from vigilance angle. In the said proceedings, it has been stated that there are four charge memos pending against the petitioner and therefore, the Vigilance Department has not cleared the petitioner's request for undertaking private foreign visit to two countries.

3. The petitioner has impugned the same before the Central Administrative Tribunal raising various contentions, including the contention that right to go abroad is a part of 'personal liberty' granted under Article 21 of the Constitution of India. Further, it has been contended that personal liberty cannot be curtailed simply on the excuse of a departmental enquiry. Further, it is contended that the expression "Vigilance Clearance" has two distinct connotations: first, for (a) empanelment ; (b) any deputation for which vigilance clearance is necessary; (c) appointment to sensitive posts and assignments to training programmes and, second for promotion.

4. It has been contended that GoI instructions on the subject makes the distinction between two purposes clear, and also demonstrates that neither interpretation is applicable or relevant for granting permission to go abroad on private visit. Further, it is submitted that the petitioner qualifies for foreign visit even as per applicable executive instructions viz., GoI, DoPT, OM dated 27.07.2015, according to which, the petitioner is entitled to assume at the present stage that the permission has been granted. Further, it is submitted that the petitioner has visited abroad earlier in 2017 based on the permission granted by the Hon'ble Supreme Court and therefore, there is no conceivable reason to deny him permission now for private foreign visit.

5. The learned counsel for the petitioner had made certain submissions touching upon the various sensitive assignments handled by the petitioner and would attribute certain other reasons for the fresh charge memos issued in the year 2018. Further, it is submitted that the petitioner had moved Special Leave Petition before the Hon'ble Supreme Court against the order passed by the High Court of Tripura at Agarthala since the said writ petition stood posted after the date on which the petitioner had planned the foreign visit and interim relief was granted by the Supreme Court by order dated 08.05.2017. We have perused the said order and we find that the Supreme Court has recorded that the petitioner is permitted to travel abroad to attend his son's graduation during the pendency of the proceedings. Subsequently, the Special Leave Petition stood dismissed as having become infructuous by order dated 22.10.2018. Thus, in our considered view there appears to be no rejection of the petitioner's request for grant of permission to undertake private foreign visit on an earlier occasion for the reasons assigned at present. In other words, it is not clear that the petitioner was denied permission on an earlier occasion on account of lack of vigilance clearance when he had approached the High Court of Tripura.

6. In any event, vigilance mechanism in any establishment is an internal mechanism to ensure that the concerned department functions in a proper manner and the officers and employees do not transgress the powers conferred on them. Thus, in our considered view, at this stage of the matter, we would not be justified in substituting our view for that of the vigilance views as recorded in the communication dated 14.12.2018 since the main matter is still pending before the Central Administrative Tribunal.

7. Therefore, in our considered view, the Tribunal was right in observing that if interim prayer is allowed, then, virtually it would amount to granting the main relief itself. The Tribunal was justified in making such observation because in the Original Application, the Tribunal has to test the correctness of the proceedings dated 14.12.2018 and even assuming that there are several charges pending against the petitioner whether it would be a bar for the petitioner to undertake foreign visit. Thus, we are of the view that the petitioner has not made out any ground to interfere with the impugned order.

8. For the above reasons, the writ petition fails and accordingly, the same stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Secretary to Government of India,
Union of India
Ministry of Home Affairs (MHA)
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New Delhi 110 001.
- 2.The Director General (DG) CRPF
Directorate General, CRPF
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- 4.The Registrar,
Central Administrative Tribunal,
Madras Bench, Chennai.

+1cc to Mr.L.Chandrakumar, Advocate sr.no.89701
+1cc to Mr.V.Chandrasekaran, Advocate sr.no.89362

W.P.No.34245 of 2018

rr(co)
nr 31/01/2019