



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.10.2019

CORAM :

WEB COPY

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P.(MD)No.14558 of 2019

and

W.M.P.(MD)Nos.11007 & 11008 of 2019

S.Manivannan

... Petitioner

vs.

1.The Director General,
Railway Protection Force,
Ministry of Railways,
Rail Bhavan,
Railway Board,
Raisina Road,
New Delhi - 110 001.

2.Chief Security Commissioner,
Railway Protection Force,
Southern Railway,
Moore Market Complex,
Chennai - 600 003.

3.The Divisional Security Commissioner,
Railway Protection Force,
Southern Railway,
Tiruchirappalli Division,
Tiruchirappalli.

4.The Inspector (Colony),
Railway Protection Force,
Golden Rock,
Tiruchirappalli - 4.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned transfer order No.SXT/P.677/ASIPF/2019, dated 24.06.2019, issued by Divisional Security Commissioner, Railway Protection Force, Tiruchirappalli, third respondent herein, quash the same as arbitrary, illegal, mala fide and against the provisions of Railway Protection Force Act, 1957 and its Rules 1987 and Directive No.32 issued by the first respondent and a consequential direction to the third respondent to



retain the petitioner at Diesel Shed, Golden Rock/Ponmalai itself till completion of petitioner's tenure of 3 years, as per Directive No.32 issued by the first respondent.

For Petitioner : Mr.Y.Krishnan

For Respondents : Mr.S.Manohar

ORDER

This Writ Petition has been filed seeking to quash the impugned transfer order No.SXT/P.677/ASIPF/2019, dated 24.06.2019, issued by Divisional Security Commissioner, Railway Protection Force, Tiruchirappalli, third respondent herein and a consequential direction to the third respondent to retain the petitioner at Diesel Shed, Golden Rock/Ponmalai itself till the completion of petitioner's tenure of 3 years, as per Directive No.32 issued by the first respondent.

2.The petitioner while working as an Assistant Sub-Inspector of Police at the Office of the Inspector of Railway Protection Force (Colony), Southern Railway, Diesel Shed, Golden Rock/Ponmalai, Tiruchirappalli District, was transferred and posted to Thanjavur. According to the learned counsel appearing for the petitioner, the order of transfer is arbitrary, *mala fide*, illegal and against the provisions of the Railway Protection Force Act, 1957 and the Railway Protection Force Rules, 1987 and Directive No.32 under Rule 28 of the Railway Protection Force Rules, 1987 r/w. Section 8 of the Railway Protection Force Act, 1957. As per Directive No.32 issued under Rule 28 of the Railway Protection Force Rules, 1987 r/w. Section 8 of the Railway Protection Force Act, 1987, the tenure of a member of the force in a particular place/station is three years. A person shall be transferred from one station to another station only when he completes normal prescribed tenure. The petitioner was working as Head Constable at Crime Branch, Tiruchirappalli Division from 2013 to 2018 and after completion of five years, he was transferred to the present Station/Post, Diesel Shed, Golden Rock, Tiruchirappalli, vide the proceedings of the third respondent, dated 28.03.2018. Subsequently, the petitioner was promoted as Assistant Sub-Inspector of Police and by the order dated 10.05.2018, issued by the third respondent herein, the petitioner was posted in the same place. Within one year of such posting, he is sought to be transferred by the impugned order of the third respondent, dated 24.06.2019.

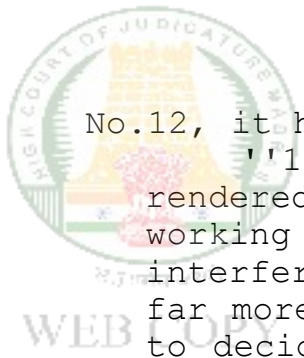
3.The petitioner is the Divisional President of All India Railway Protection Force Association. As per the Railway Board's Letter dated 07.06.2003, issued by the Director/RPF, Railway Board, New Delhi, the President/Secretary of the Zonal/Divisional Association should preferably be posted at Divisional/Zonal Headquarters. The petitioner as a President of All India Railway



Protection Force Association, filed W.P.(MD)No.8130 of 2019 challenging the order passed by the Deputy Inspector General, Railway Board, suspending the activities of Association and this Court granted an order of interim stay. In view of the said action of the petitioner, the third respondent has issued the impugned transfer order with *mala fide* intention against the provisions of the Railway Protection Force Act, 1957 and the Railway Protection Force Rules, 1987 and Directive No.32. There are 13 staffs, who are working at Diesel Shed, Golden Rock, Tiruchirappalli, for several years and they have not been transferred. As per Rule 93(2) of the Railway Protection Force Rules, 1987, no member of the Force shall be 'transferred' from one Station to another unless he has been at that Station for the normal prescribed time nor he shall be allowed to remain at that Station for more than one year thereafter without the specific approval of the Chief Security Commissioner concerned in respect of enrolled members of the Force and of the Director-General in respect of superior officers. Thus, the respondents have not followed the statutory provision while transferring the petitioner.

4.The respondents filed counter affidavit. The learned counsel appearing for the respondents contended that as per Rule 90 of the Railway Protection Force Rules, 1987, a member of the force can be transferred from one place to any other place in India in the exigencies of service or for administrative reasons or to avoid local entanglements of such members or for any other consideration. In the present case, by the impugned order dated 24.06.2019, the petitioner was transferred for administrative reasons. The petitioner had served almost 27 years in the same City/Town. As per serial 13 of Directive No.32 under Rule 28, a member of the Force may be allowed posting for maximum of 10 years at a stretch and 15 years in broken spells when there are more than two Railway Protection Force Units, subject to availability of vacancy. The petitioner has completed more than 15 years of broken spells. The respondents denied the contention of the learned counsel appearing for the petitioner that the petitioner was transferred for filing W.P.(MD)No.8130 of 2019 challenging the order passed by the Deputy Inspector General, Railway Board, suspending the activities of Association, as a President of All India Railway Protection Force Association. The petitioner was transferred only on administrative reason and the order of transfer is valid and legal. The learned counsel appearing for the respondents denied the contention of the petitioner that the impugned order is *mala fide* and discriminatory. The petitioner was transferred from Trichy to Thanjavur in the same Division and prayed for dismissal of the Writ Petition.

5.In support of his contentions, the learned counsel appearing for the respondents relied on a Judgment of the Hon'ble Apex Court in the case of **Major General J.K. Bansal Vs. Union of India and others** reported in **AIR 2005 Supreme Court 3341**, wherein at Paragraph



No.12, it has been held as follows:-

''12.It will be noticed that these decisions have been rendered in the case of civilian employees or those who are working in Public Sector Undertakings. 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.''

6.I have heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents and perused the materials available on record.

7.From the averments made in the affidavit filed in support of the Writ Petition, it is seen that the petitioner had put in 29 years of service in the Railway Protection Force. It is also seen that the petitioner was working as Head Constable from 2013 to 2018 at Crime Branch, Tiruchirappalli Division. After five years of service, the petitioner was transferred to Diesel Shed, Golden Rock, by order dated 28.03.2018. After promotion as Assistant Sub-Inspector of Police, he continued in the same place. The petitioner has not denied the contention of the respondents that he was working in the same station for more than 15 years in broken spells. The petitioner has stated that he was appointed as Constable in the year 1990. Apart from stating that he was transferred from Crime Branch at Trichy on 28.03.2018, the petitioner has not stated the place where he was transferred and worked for the past 29 years. In view of the same, the contention of the petitioner that he is working as Assistant Sub-Inspector of Police from 10.05.2018 at Diesel Shed, Golden Rock, Tiruchirappalli, and therefore, unless he completes normal tenure, he cannot be transferred to another Station, is without merits. Further, the petitioner is transferred from Trichy to Thanjavur in the same Division. The contention of the learned counsel appearing for the petitioner that being the Divisional President of All India Railway Protection Force Association, he must be posted in the Headquarters only and not transferred from the Headquarters, is contrary to the averments made by the petitioner in the affidavit. Even according to the petitioner, as per the Railway Board's Letter dated 07.06.2003, issued by the Director/RPF, Railway Board, the President/Secretary of the Zonal/Divisional Association should preferably be posted at Divisional/Zonal Headquarters. There is no requirement to post the President and Secretary only at Headquarters. As per Rule 90 of the Railway Protection Force Rules, 1987, the respondents have power to transfer the members of the force from one place to any other place in India in the exigencies of service. The contention of the learned counsel appearing for the respondents that Rule 93(2) of the Railway Protection Force Rules



has to be read with Rule 90 of the Rules, has considerable force. It is relevant to extract below both the Rules:-

''90.General:

Transfer of members of the Force may be ordered from one place to any other place in India in the exigencies of service or for administrative reasons or to avoid local entanglements of such members or for any other consideration.

93.2.Ordinarily, no member of the Force shall be transferred from one Station to another unless he has been at that Station for the normal prescribed tenure nor he shall be allowed to remain at that station for more than one year thereafter without the specific approval of the Chief Security Commissioner concerned in respect of enrolled members of the Force and of the Director-General in respect of superior officers.''

8.A reading of both the Rules clearly reveal that the respondents have power to transfer the petitioner for the reasons mentioned in Rule 90 of the said Rules even before the Member of the Force completes the normal prescribed tenure. Rule 93(2) of the said Rules states that a person cannot be allowed to remain in the same Station after completion of normal tenure for more than one year without consent of the Chief Security Commissioner. In the present case, the petitioner is transferred from Trichy to Thanjavur in the same Division due to administrative reason and the same is valid and legal, as transfer is an incident of service and no employee has any vested right to claim posting at a particular place of his choice.

9.For the above reasons, this Writ Petition fails and the same is liable to be dismissed. Accordingly, this Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CO)

// True Copy //

Sub Assistant Registrar(CS)

smn2
To

1.The Director General,
Railway Protection Force,
Ministry of Railways,
Rail Bhavan, Railway Board,
Raisina Road, New Delhi - 110 001.



2.Chief Security Commissioner,
Railway Protection Force,
Southern Railway,
Moore Market Complex,
Chennai - 600 003.

3.The Divisional Security Commissioner,
Railway Protection Force,
Southern Railway,
Tiruchirappalli Division,
Tiruchirappalli.

4.The Inspector (Colony),
Railway Protection Force,
Golden Rock,
Tiruchirappalli - 4.

+1CC TO MR.S.MANHAR, Advocate Sr. No.94796

+1CC TO MR.Y.KRISHNAN, Advocate Sr. No. 94340

W.P.(MD)No.14558 of 2019
24.10.2019

pm(CO)
TR(14.11.2019) 6P 7C