



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDER RESERVED : 25.07.2019

ORDER PRONOUNCED : 03.12.2019

WEB COPY

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THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P. (MD) No.7619 of 2019
and
W.M.P. (MD) No.6058 of 2019

P.Richard

...Petitioner

Vs.

1.The Director General,
Railway Protection Force,
Ministry of Railways,
New Delhi.

2.The Principal Chief Security Commissioner,
O/o. Railway Protection Force,
Moore Market Complex,
Southern Railway,
Chennai - 3.

3.The Principal,
RPF Training Centre,
Kajamalai,
Trichy.

...Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the entire records from the third respondent pertaining to RPF/TC/P.535/IPF/GT/2019/283 & Office order No.10/19 dated 27.03.2019 and quash the same and consequently, to direct the respondents 2 and 3 to keep the petitioner in the present station till the completion of his tenure as per the Directive No.32 issued by the first respondent vide letter No.2014/Sec(Spl)/6/12 dated 28.12.2017.

For Petitioner : Mr.R.Ramasamy

For R1 & R2 : Mr.S.Manohar



ORDER

This Writ Petition has been filed to quash the order, dated 27.03.2019, passed in RPF/TC/P.535/IPF/GT/2019/283 & Office order No.10/19 by the third respondent and to direct the respondents 2 and 3 to keep the petitioner in the present station till the completion of his tenure.

2. According to the petitioner, he was initially appointed as Sub Inspector of Police in the second respondent office and subsequently, he was promoted as Chief Trill Inspector and transferred to RPF Training Centre, Trichy and joined duty on 25.04.2016. Thereafter, by order dated 27.03.2019, he was transferred to ICF, Chennai, by the third respondent stating that the petitioner completed his tenure as on 31.03.2019. Challenging the same, the present writ petition has been filed.

3. The learned counsel appearing for the petitioner would submit that as per Rules framed in Directive No.32 (Revised) vide letter No.2014/Sec(Spl)/6/12 dated 28.12.2017, by the first respondent and as per Section 8 of the Railway Protection Force Act, 1957, the period of tenure for Faculty Member, who is working in Zonal Training Centre, is five years. The learned Counsel for the petitioner would further submit that without considering and following the aforesaid Rules and Guidelines and without even considering the period of service of the petitioner in the present post, the third respondent has passed the impugned order, dated 27.03.2019, as the petitioner's tenure is not completed as on 31.03.2019.

4. By relying upon Guideline 2 B) of Directive No.32, the learned counsel for the petitioner would further submit that the petitioner's daughter is studying in 10th standard during this academic year (2019-2020), in Trichy. Hence, the presence of the petitioner is very much essential to take care of his daughter during this year.

5. In support of his contention, the learned counsel appearing for the petitioner relied on the guidelines (iii), (iv) and (vii) of Directive No.32 (Revised) for periodical transfer and the same is as follows:

(iii) while transferring members of the Force from one station to another, the fact that his/her spouse is posted at a particular station, if brought to notice by the concerned RPF personnel, should be duly taken into consideration and working couple should be posted at the same or nearest station, as far as possible, but within the constraints of administrative and operational feasibilities;

(iv) periodical transfer, on completion of prescribed tenure, shall be done in such a way that the movement of



member of the Force may, as far as possible, be completed before new academic session begins so that children's education is not disrupted; and

.....
(vii) periodical transfer shall invariably be ordered on or before 31st March each year. For counting period of posting, deemed date of start of tenure shall be 31st March of the year if the transfer order is issued before 31st March in that year or the person joins new place of posting on or before 30th September in that year. In other cases, the tenure shall start from 31st March of next year;

6. Per contra, the learned counsel appearing for the respondents 1 and 2 would submit that the petitioner was posted as Inspector in the third respondent Training Centre and as per the guidelines of Directive-32, the tenure of Inspector is only about 3 years. Further, he would submit that the five years tenure period is applicable only to the Training Faculty, and therefore, the petitioner cannot sought for extension of his tenure beyond three years, as he is only the Inspector in the Training Centre and he is not come under the category of Training Faculty. Furthermore, the petitioner has not undergone any Training of Trainers (TOT) or CTI Courses for being eligible to consider him as Training Faculty. Hence, the order of third respondent, dated 27.03.2017, cannot be challenged, as the same is in accordance with Rule 90 of RPF Rules and in accordance with the Guidelines issued by the first respondent.

7. The learned counsel for the respondents 1 and 2 further would submit that the contentions of the petitioner is totally erroneous. The order of third respondent, transferring the petitioner, is purely on administrative reasons, which is well within his competence. Hence, the petitioner's averment that he cannot be transferred before 5 years is totally incorrect. The learned counsel further would submit that the representation of the petitioner dated 30.03.2019, requesting retention was not submitted by the petitioner within the time for periodical transfer and hence, the same has not been considered by the respondents. With regard to the same issue, the learned counsel appearing for the respondents 1 and 2 relied upon the judgment of Hon'ble Supreme Court in the case of **National Hydroelectric Power Corporation Ltd., vs. Shri Bhagwan and others** reported in (2001) 8 Supreme Court Cases 574.

8. Heard the learned counsel on either side and perused the records carefully.

9. Admittedly, the petitioner was initially appointed as Sub Inspector of Police in the second respondent office and subsequently, he was promoted as Chief Trill Inspector and posted to RPF Training Centre, Trichy and joined duty on 25.04.2016.



Thereafter, by impugned order of third respondent, dated 27.03.2019, the petitioner was transferred to ICF Chennai.

10. It is the contention of the petitioner that he has not completed his five years tenure for periodical transfer in the present station and hence, the

impugned order is liable to be set aside in view of the Rules framed in Directive No.32 (Revised) vide letter No.2014/Sec(Spl)/6/12 dated 28.12.2017, by the first respondent and as per Section 8 of the Railway Protection Force Act, 1957. In relation to the same, it is useful to extract the relevant portion in Directive No.32 (Revised):-

2.A) Period of tenure of RPF/RPSF Personnel:

S.No	Officers/Staff	Tenure Period
1	Superior Officers excluding those posted in the Railway Board and posted as faculty member in Training Centre.	3 years
2	Officers posted in the Railway Board	5 years
3	Inspectors and Sub Inspectors except posted as faculty member in Training Centre	3 years
4	Other enrolled members of RPF	5 years
5	Faculty member of JR Academy and other Zonal Training Centers (excluding Director/Principal)	5 years
6	Director of JR RPF Academy and other Zonal Training Centres.	3 years
7	Enrolled members of Force posted in SIB (except IPF)	5 years
8	All enrolled male members of RPSF for inter-battalion transfer	10 years (5 years on request)
9	All enrolled member (Women) of RPSF Battalion for inter battalion transfer.	5 years (3 years on request)
10	All ranks in notified bad climate, out of way places and hard posting, N.F.Railway (Except KIR Divn) and Kashmir Valley	2 years

11. From the reading of above Rule and relevant records, it would reveal that the petitioner is only the Inspector in the Training Centre and he is not come under the category of Training Faculty. It would further reveal that the petitioner neither has completed Training of Trainers (TOT) nor completed CTI Course



for being eligible to consider him as Training Faculty. Hence, the submission of the learned Counsel for the petitioner that the petitioner can be transferred only after the completion of five years tenure in the present station has no substance.

12. It is also seen from the records that the representation of the petitioner, dated 30.03.2019 to consider him as Trainee and not to transfer him to another place before completion of his five years tenure in the present station was not submitted well within time (by the end of January), as per Rule 11(i) of the Directive No.32 (Revised). Hence, in view of the laches in submitting the representation, the impugned order cannot be challenged.

13. The submission of the learned Counsel for the respondents that the transfer of petitioner is purely on administrative reasons, is appears to be valid. In support of his contention, he relied on the decision reported in **National Hydroelectric Power Corporation Ltd., vs. Shri Bhagwan and another** reported in (2001) 8 Supreme Court Cases 574.

14. The Hon'ble Supreme Court in the case of **Shilpi Bose (Mrs) v. State of Bihar** reported in (1991 Supp (2) SCC 659) = AIR 1991 SC 532 wherein the Hon'ble Supreme Court held as under:

"4. In our opinion, the courts should not interfere with a transfer order which is 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 no 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. If the courts continue to interfere with day-to-day transfer orders issued by the government and its subordinate authorities, there will be complete chaos in the administration which would not be conducive to public interest. The High Court overlooked these aspects in interfering with the transfer orders."

15. In **Major General J.K.Bansal v. Union of India**, reported in (2005) 7 SCC, the Hon'ble Supreme Court held as under:

"11. Similar view has been taken in **National Hydroelectric Power Corp. Ltd v. Shri Bhagwan** [(2001) 8 SCC 574:2002 SCC (L&S) 21] wherein it has been held that no government servant or employee of a public undertaking has any legal right to be posted forever at any one



particular place since transfer of a particular employee appointed to the class or category of transferable posts from one place to another is not only an incident, but a condition of service, necessary too in public interest and efficiency in public administration. Unless an order of transfer is shown to be an outcome of male fide 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.

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 the 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."

16.In view of the foregoing discussions, considering the facts and circumstances of this case and the decisions cited, this Court is not inclined to interfere with the order impugned in this writ petition and the Writ Petition is liable to be dismissed.

17.Accordingly, the Writ Petition is dismissed. The impugned order passed by the second respondent in RPF/TC/P.535/IPF/GT/2019/283 & Office order No.10/19 dated 27.03.2019, is hereby confirmed. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar(CS-II)

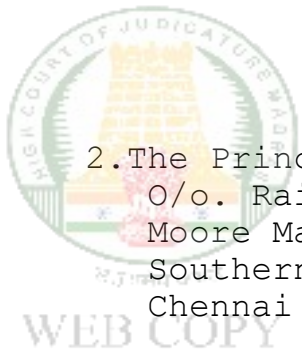
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Sub Assistant Registrar(CS)

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To

1.The Director General,
Railway Protection Force,
Ministry of Railways,
New Delhi.



2.The Principal Chief Security Commissioner,
O/o. Railway Protection Force,
Moore Market Complex,
Southern Railway,
Chennai - 3.

+1 CC to M/s.S.MANO HAR, Advocate (SR-103409[F] dated 04/12/2019)

+1 CC to M/s.R.RAMASAMY, Advocate (SR-103535[F] dated 05/12/2019)

order made in
W.P. (MD) No.7619 of 2019
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TR(20.12.2019) 7P 5C