

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.22318 of 2019

ORDER

This writ petition is filed seeking the following relief:

“.....to issue a writ, order or direction more particularly one in the nature of a Writ of Mandamus declaring the action of second respondent in issuing impugned order of transfer vide Signal No.T.IX-7/2019-Pers-DA-4, dated 02.07.2019 and the rejection of petitioner representation vide Signal No.T.IX-7/2019-Pers-DA-4, dated 09.08.2019 and the consequential Signal No.T.IX-7/2019-Pers-DA-4, dated 03.10.2019 directing to relieve the petitioner from the present place of posting as arbitrary, illegal and set aside the same and pass such other order or orders as this Hon'ble Court may deem fit and proper in the interest of justice and equity.”

Heard Smt K.V.Rajasree, learned counsel appearing for the petitioner, and Sri K.Aravind Kumar, learned Standing Counsel for Central Government appearing for the respondents.

It is the case of the petitioner that he joined the Central Reserve Police Force in the year 1994. Since he has completed nearly three years in operational area, he made a request to the respondents to transfer him to Hyderabad. Conceding his request, the respondents have transferred him to the 4th respondent's office, Hyderabad, as Deputy Commandant

(Intelligence). Subsequently, he was sent to Jammu and Kashmir for Amarnath Yatra for a period of one month. After completion of Amarnath Yatra, he was repatriated to his duty. While so, again the respondents within a span of three months transferred him to Odisha vide proceedings dated 02.07.2019. Hence, the petitioner submitted a representation dated 17.07.2019 to the 2nd respondent to continue him in the 4th respondent's office. The 2nd respondent *vide* proceedings dated 9.8.2019 rejected his request. Thereafter, *vide* consequential proceedings dated 3.10.2019, he was asked to relieve immediately from the office of the 4th respondent. Challenging the same, the present writ petition.

Learned counsel appearing for the petitioner contends that as per the transfer policy, every employee of the Central Reserve Police Force is entitled to be retained at the place where he was transferred. But, in the instant case, the respondents have transferred the petitioner within three months from Hyderabad to Odisha. Therefore, the impugned proceedings issued by the respondents in rejecting the case of the petitioner to retain him at Hyderabad is arbitrary, illegal and contrary to the guidelines issued by the respondents.

Learned Standing Counsel appearing for the respondents contended that the petitioner had earlier worked

in Hyderabad from 2008-2016 and only in 2016, he was transferred to Jammu and within two years, his request was entertained and he was posted to 4th respondent's office. Since there is exigency of his service, he was transferred to Odisha, and his request to retain him at 4th respondent's office was considered and rejected *vide* proceedings dated 9.8.2019 and in the interest of the organization, he was transferred to Odisha. As transfer guidelines are not the statutory orders, they cannot be enforced. Unless and until there is any illegality or irregularity, this Court should not interfere with the impugned order.

Having considered the rival submissions made by the learned counsel on either side, this Court is of the view that the petitioner has been transferred from 4th respondent's office to Odisha *vide* proceedings dated 2.7.2019. The request of the petitioner for retaining him at 4th respondent's office was considered and rejected *vide* proceedings dated 9.8.2019. When the consequential proceedings dated 3.10.2019 were issued directing the petitioner to relieve from 4th respondent's office, he approached this Court. Since transfer is an incidence of service, this Court is not inclined to interfere with the impugned proceedings. There are no merits in the writ petition and the same is liable to be dismissed.

Accordingly, the Writ Petition is dismissed. No costs.

Pending miscellaneous petitions, if any, shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

15th October, 2019
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