IN THE HIGH COURT OF MANIPUR
AT IMPHAL

W.P.(C) No. 245 of 2019

Shri Meitram Iboyaima Singh, aged about 43 years, S/o Late Meitram Nimai Singh of Awang Jiri Maning Leikai Ward No. 1/7 Yarou Bamdiar Gram Panchayat, P.O. & P.S. Nambol, Imphal West District, Manipur-Pin:795134 at present posting at 109 Bn. CRPF, having HC/GD No. 991152722.

... Petitioner

-Versus -

1. Union of India represented through its Home Secretary (Ministry of Home Affairs) North Block, New Delhi, Government of India.-110001.
2. The Director General of Police, CRPF, CGO Complex, Lodhi Road, New Delhi-110003.
3. The IGP, KK Sector, Group Centre (CRPF) Yelahanka, Bangulur, Karnataka-560064.
4. DIGP, GC, CRPF Chandauli, Dulhipur, P.O. & P.S Dulhipur, District Chandauli, Uttar Pradesh. Pin 232101.
5. The Commandant 143 Bn, CRPF, Lamphelpat, Imphal West District, Manipur.795004.
6. The Commandant 109 Bn CRPF, Mongsangei, Imphal West District, Manipur.

... Respondents

B E F O R E

HON'BLE MR. JUSTICE AHANTHEM BIMOL SINGH

For the Petitioner	**:**	Mr. M. Devananda, Advocate
For the respondents	**:**	Mr. S. Vijayanand Sharma, SPC
Date of Hearing	**:**	**11.09.2020.**
Date of Judgment & Order	**:**	**16.09.2020.**

JUDGMENT & ORDER
(CAV)

[1] Heard Mr. M. Devananda, learned counsel appearing for the petitioner and Mr. S. Vijayanand Sharma, learned senior panel counsel appearing for the respondents.

[2] In the present case the petitioner is assailing the Signal dated 10.05.2018, transferring him from 143 Bn to 170 Bn and also Signals dated Nil.07.2018 and dated Nil.09.2018 for relieving the petitioner to join 170 Bn on completion of his tenure of posting, i.e., w.e.f. 01.04.2019.

[3] The petitioner was posted to 143 Bn at Lamphelpat, Manipur on 30.12.2013 and after the petitioner completed his tenure of posting in his Home State, the authorities issued the impugned Signal dated 10.05.2018 transferring him from 143 Bn. to 170 Bn, which is under Karnataka Sector.

[4] According to the petitioner, even though he got married in the year 2009, they could not have any children as his wife is suffering from primary infertility and has been undergoing medical treatment. Over and above the illnesses of his wife, the petitioner's old aged father is also suffering from Kidney Failure and undergoing medical treatment.

[5] Accordingly, when the impugned transfer order was issued, the petitioner approached the respondents by submitting a representation seeking for personal interview to consider his case for transferring him to

86 Bn or 69 Bn GC Imphal so as to enable him to continue medical treatment of his wife and his old aged father.

It is submitted that the case of the petitioner was also recommended by the Commandant 143 Bn on compassionate grounds, however, the competent authority rejected the request made by the petitioner in his representation on the ground that the petitioner was in illegible for his request transfer as per the transfer policy under Standing Order No. 07/ 2015.

[6] Having being aggrieved, the petitioner approached this Court earlier by filing WP (C) No. 478 of 2018 assailing the transfer order. The said writ petition was disposed of by this Court on 07.06.2018 with the following directions:-

> *"In view of the above, the instant writ petition is disposed of with the direction that the petitioner shall submit a representation within a period of 10 (ten) days from today to the Inspector General, KK Sector, Group Central (CRPF), Yelahanka, Bangulur, Karnataka-560064 and in the event of such representation being submitted by him, the said Inspector General shall consider and dispose of the same within a period of (one) week therefrom and issue a speaking order in respect thereof. Till the disposal of the said representation, no movement order shall be issued in respect of the petitioner."*

[7] In compliance with the direction given by this Court, the petitioner again submitted a representation dated 15.06.2018 to the IG, KK Sector, Group Centre (CRPF), Yelahanka, Bangaluru requesting for allowing him to have the benefit of extension of 1 (one) year tenure posting as provided under Para No. 4 (xvi) (b) vii of the standing order No. 07/2015.

It will be relevant to note that under Para No. 4 (xvi) (b) vii of the Standing Order No. 07/2015, it is provided, inter alia, that the eligibility condition as laid down in the said standing order can be relaxed by 1 (one) year in very deserving cases by sector IGP on medical grounds when one's spouse is suffering from infertility.

[8] It is submitted on behalf of the petitioner that in purported compliance of the orders of this Court dated 07.06.2018 passed in W.P. (C) No. 478 of 2018, and after considering the representation submitted by the petitioner, the competent authority allowed the petitioner to remain in his Home State by posting him to 109 Bn which is at Mongsangei, Manipur, vide signal dated 14.07.2018.

[9] In the said signal dated 14.07.2018, it is clearly mentioned that the petitioner is posted to 109 Bn upto 31.03.2019 and on completion of his tenure at 109 Bn, the petitioner will be relieved for his transfer to 170 Bn without projecting any difficulties/representation etc. Subsequently by another 2 (two) signals impugned herein (at Annexure-A/8 & Annexure-A/9 to the writ petition), it was intimated to the commandant 109 Bn that the petitioner should be relieved for his transfer to 170 Bn w.e.f. 01.04.2019 on completion of his tenure posting at 109 Bn without projecting any difficulties/representation etc.

[10] The petitioner accepted the terms and conditions of his posting as mentioned in the above signals dated 14.07.2018, dated

Nil.07.2018 dated Nil.09.2018 and enjoyed his tenure posting at 109 Bn and remain posted in his Home State. However, at the fag end of his tenure posting at 109 Bn, the petitioner by taking a U-turn filed the present writ petition on 14.03.2019 challenging the transfer order dated 10.05.2018 and Signals dated Nil.07.2018 and dated Nil.09.2018 by contending that as he had been transferred and posted to 109 Bn, which is under Central Sector, pursuant to the order passed by this Court, he should be allowed to complete the period of 4 (four) years tenure posting in Central Sector as provided under Para No. 4 (viii) and (ix) of the Standing order No.07/ 2015.

[11] After filing of this case, the petitioner obtained an interim order from this Court on 18.03.2019 directing to allow the petitioner to remain in his place of posting at 109 Bn. By virtue of the said interim order of this Court, the petitioner has been continuing to enjoy his posting at 109 Bn till today.

[12] Mr. M. Devananda, learned counsel strenuously submitted that as the petitioner is yet to complete his tenure posting of 4 (four) years in the Central Sector and 10 (ten) years posting in the Central Zone, the petitioner should be allowed to continue in his present place of posting till the completion of the tenure posting of 4 (four) years in the Central Sector or 10 (ten) years in the Central Zone as provided under Para No. 4 (viii) and (ix) of the Standing order No. 07/ 2015 by interfering with the impugned transfer order and Signals.

[13] Mr. S. Vijayanand Sharma, learned senior panel counsel for the respondents on the other hand submitted that after completion of his normal tenure posting at 143 Bn, the petitioner was posted to 170 Bn by issuing the transfer order dated 10.05.2018. However, on consideration of his representation and on humanitarian ground the tenure posting of the petitioner was extended for another 1 (one) year as provided under Para No. 4 (xvi) (b) vii of the Standing order No. 7 of 2015 and he was allowed to continue to enjoy posting at his Home State by posting him to 109 Bn by issuing the transfer order dated 14.07.2018. The learned counsel further submitted that under the subsequent transfer order dated 14.07.2018, it is clearly mention that the petitioner should be posted to 109 Bn upto 31.03.2019 and on completion of his tenure posting at 109 Bn he will be relieved for his transfer to 170 Bn without projecting any difficulties/representation etc. by the petitioner.

The learned counsel further submitted that the petitioner having accepted the terms and conditions as mentioned in the subsequent transfer order dated 14.07.2018 and enjoyed such posting, he cannot turn round and claim that he should be allowed to continue to enjoy his posting at 109 Bn.

[14] It was submitted on behalf of the respondents that as the petitioner did not challenge the subsequent transfer order dated 14.07.2018 in the present writ petition, he is bound by the terms and conditions mentioned therein. The present writ petition was filed on 14.03.2019, hardly

about 16 (sixteen) days prior to completion of the period of the petitioner's posting to 109 Bn and accordingly, the learned counsel for the respondents submitted that the present writ petition had been filed only with the intention of delaying the transfer of the petitioner to 170 Bn.

[15] The learned counsel for the Respondents also submitted that since the petitioner had already accepted the terms and conditions as mentioned in the subsequent transfer order dated 14.07.2018, he cannot now turn round and claim that he should be allowed to continue at his posting at 109 Bn, which will be akin to blowing hot and cold by the same breathe.

[16] After hearing the counsels of the parties and after perusal of the records, this Court finds that the subsequent transfer order dated 14.07.2018 had been issued by the authority after considering the personal difficulties of the petitioner and on humanitarian ground and the petitioner was allowed to continue in his posting at his Home State, however, with specific condition that such posting is only upto 31.03.2019 and on completion of the said period, he should be relieved for his transfer to 170 Bn without projecting any difficulties/representation from the side of the petitioner.

[17] The petitioner having accepted such terms and conditions as mentioned in the subsequent transfer order dated 14.07.2018 and enjoyed such posting without any protest, he is debarred from raising the plea that

as he had been posted to Central Sector, he should be allowed to continue to enjoy his tenure posting at Central Sector as provided under Standing Order No. 07 of 2015. In short, the petitioner cannot approbate and reprobate at the same time. Moreover, it is well settled principle of law that transfer is an incident of service and no employee can claim as of right for his transfer and posting at any particular place of this choice. In view of the above, this Court finds no merit in the present writ petition.

[18] Lastly, the learned counsel for the petitioner submitted that at present it is very difficult to travel anywhere due to the grave situation of Pandemic of COVID-19 and it will be very difficult for the petitioner to join at his place of posting under the impugned transfer order dated 10.05.2018. Accordingly, the learned counsel prayed that the petitioner may be given a chance to submit a representation to the authority and to allow him to continue at his present place of posting till the disposal of the said representation by the authorities.

[19] This Court cannot be obvious of the fact that due to Pandemic of COVID-19, there is great difficulty in travelling anywhere outside the State and presently there are also great risks in undertaking such travelling particularly to the State of Karnataka.

[20] Considering such situation, it is directed that the petitioner may submit a representation to the competent authority within a period of 10 (ten) days from today and in case of any such representation being

submitted, the authorities will consider the same on its own merit and dispose it of within a period of 15 (fifteen) days from the date of receipt of such representation.

It is made clear that pending disposal of the said representation the petitioner shall be allowed to continue at his present place of posting.

[21] With the findings and observations made above, this writ petition is disposed of. Earlier interim orders stand merged with this judgment & order.

A copy of this order be furnished to the counsel of the parties through their respective e-mail.

JUDGE

FR/NFR

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