Item No. 2
(Through video conferencing)

IN THE HIGH COURT OF MANIPUR
AT IMPHAL

W.P. (C) No. 417 of 2019

Smt. Thingom Anita Devi, aged about 35 years, W/o. Rajkumar Manmohan Singh a resident of Kwakeithel Thiyam Leikai, PO & PS Imphal, Imphal West, Manipur – 795001.

…. *Petitioner*

\- Versus –

The Union of India through the Secretary, Ministry of Home Affairs, Government of India, North Block, New Delhi – 110001 **& 4 Ors.**

.... *Respondents*

BEFORE
HON'BLE MR. JUSTICE AHANTHEM BIMOL SINGH

28.08.2020

Heard Mr. L. Sityandra, learned counsel appearing for the petitioner and Mr. S. Samarjeet, learned CGSC appearing for the respondents.

[2] In the present case, the petitioner is challenging her transfer order dated 05.05.2019 and order dated 17.05.2019 rejecting the representation of the petitioner requesting for deferment of her posting for 1(one) year.

[3] It is the case of the petitioner that the petitioner was posted at Imphal Airport as SI, Central Industrial Security Force (CISF) by an order dated 07.05.2014 owing to her health problem. While she was serving as such, the authorities issued the impugned order dated 05.05.2019 transferring and posting her to South Zone Airport, Bangalore.

[4] It is submitted by the counsel for the petitioner that the petitioner is living along with her husband, who is a State Government employees, and their 2 (two) small daughters aged about 4 (four) years and 2 (two) years.

It is further submitted that the younger daughter of the petitioner is suffering from Atopic Dermatitis cum Childhood Asthma which needs constant care and attention and the petitioner herself is also suffering from Bronchial Asthma and her husband is facing a lot of difficulties looking their 2 (two) daughters. In such difficult situation, the petitioner approach the Addl. Director General, Airport Sector, Mahipalpur, New Delhi by submitting a representation dated 08.05.2019 requesting to differ her transfer and posting from Imphal to Bangalore by 1 (one) year on medical and humanitarian ground.

[5] It is also submitted by the counsel for the petitioner that the said representation and order dated 17.05.2019 was rejected by the authorities and directions were given to relief the petitioner to let her join the new place of posting.

Having been aggrieved the petitioner approached this Court by filing the present writ petition with a prayer for quashing the said 2 (two) orders.

[6] At the time of motion of the present writ petition, this Court passed an interim order on 24.05.2019 directing the respondents not to release the petitioner from her present place of posting and by virtue of the said interim order it is stated that the petitioner is still discharging her duties at Imphal Airport till today.

[7] Mr. S. Samarjieet, learned CGSC submitted that the petitioner has been transferred after she had completed her normal tenure of posting and the impugned transfer order had been passed in normal course. The learned counsel also submitted that since the petitioner had already availed extension of her posting tenure at Imphal on account of her illness, she is not entitled to any further extension and to continue in her present posting at Imphal.

It is further submitted by Mr. S. Samarjeet, learned CGSC that transfer is an incident of service and the petitioner has no vested right to claim for posting at a particular place of her choice and the present writ petition deserves to be dismissed.

[8] On perusal of the records and the earlier interim order dated 24.05.2019, it is ascertained that the petitioner had already enjoined more than 1 (one) year tenure in her present place of posting as requested by her in her representation.

[9] At this juncture, the learned counsel for the petitioner strenuously submitted before this Court that as the petitioner as well as her small daughter, who is hardly 3 (three) years old, are suffering from Bronchial Asthma and the Atopic Dermatitis cum Childhood Asthma, it will not only be difficult but very risky from them to travel to Bangalore during the Pandemic of COVID-19, if the impugned transfer order is given effect to.

Accordingly, the learned counsel prays that the petitioner be allowed to submit a fresh representation to the concerned authorities highlighting her difficulties for movements at this juncture during the Pandemic of COVID-19 and with a request for allowing her to remain at her

new place of posting for some more time till the situation of COVID-19 Pandemic improves.

[10] After hearing both the counsels, this Court is of the view that there is nothing to be decided in the present case and that the present writ petition has become infructuous.

[11] However, considering the submission of the counsel for the petitioner that the petitioner and her small daughter is suffering from Bronchial Asthma and Atopic Dermatitis cum Childhood Asthma and that it is very risky for them to travel to Bangalore during the Pandemic of COVID-19, this Court is of the view that it will be in the interests of justice that the petitioner be allowed to submit a fresh representation to the concerned authorities highlighting her difficulties.

[12] In view of the above, it is directed that the petitioner is permitted to submit a representation to the appropriate authorities within a period of 2 (two) weeks from today. If in case, such representation is submitted by the petitioner, the authorities shall consider and disposed of the same by passing a speaking order within a period of 6 (six) weeks from the date of receipt of such representation.

[13] It is made clear that pending disposal of the said representation the petitioner should be allowed to continue at her present place of posting. With the above directions the present writ petition is disposed of. No costs.

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

JUDGE

MAYANGLAM BAM CHANU NANDINI
Digitally signed by MAYANGLAMBAM CHANU NANDINI
Date: 2020.08.28 15:20:07 +05'30'