IN THE HIGH COURT OF MANIPUR
AT IMPHAL

W.P.(C) No. 484 of 2018

Shri Yumnam Nabakeshwor Singh, aged about 36 years, S/O Y. Manaobi Singh, resident of Changangei Makha Leikai, P.O. Tulihal Airport & P.S. Singjamei, District Imphal West, Manipur. Pin- 795140, at present posting at B/2 Signal Bn CRPF, GC Langjing Imphal, having HC/RO No. 015151917.

…….. Petitioner

-Versus-

1. The Union of India represented through its 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, Manipur and Nagaland Sector, Group Centre CRPF Langjing, Manipur, P.O. & P.S. Lamphel, Imphal West District, Manipur, Pin-795113.

4. The DIGP, GC, CRPF Langjing, Imphal, Manipur, P.O. & P.S. Lamphel, Imphal West District, Manipur, Pin-795113.

5. The Commandant 2nd BN, Hyderabad (T.S.)
G.C. Hyderabad, Pin-500001.

… *Respondents*

BEFORE
HON'BLE MR. JUSTICE M.V. MURALIDARAN

For the Petitioner	::	Mr. M. Devananda, Advocate.
For the Respondents	::	Mr. W. Darakeshwar, Sr.Panel Counsel, Central Govt.
Date of Hearing & Judgment & Order	::	**06.10.2020**

JUDGMENT AND ORDER
(ORAL)

[1] The writ petitioner has filed the present writ petition seeking the prayer as follows :-

"(i) Admit the writ petition and Issue Rule Nisi calling upon the respondents to show cause as to why a writ/order/direction in the nature of Certiorari or any other appropriate Writ/Order/directive (s) should not be issued quashing and setting aside office the impugned transfer and posting order vide the Signal dated 14/04/2018 (at Annexure-A/6) and the Order vide the Signal dated 23/05/18 (at Annexure-A/8) in respect of the Petitioner, in the facts and circumstance of the present petition;

(ii) To show cause as to why a Writ in the nature of Mandamus or any other appropriate writ / order /

directive (s) should not be issued directing the respondents to consider and dispose of the Representation dated 20/04/2018 (at Annexure-A/7) in view of the Standing Order No.7/2015 by passing reasoned and speaking order within a stipulated period of time.

(iii) Make the Rule absolute;

(iv) To pass any appropriate order or direction (s) which may be appropriate to be passed under such facts and circumstance of the instant case, for the ends of justice.

AND
IN THE INTERIM

Your Lordship's may be gracious enough to pass appropriate interim order staying/suspending the impugned transfer and posting order vide the Signal dated 14/04/2018 (at Annexure-A/6) and the Order vide the Signal dated 23/05/18 (at Annexure-A/8) in respect of the petitioner and to allow the petitioner to remain at his place at 2nd Signal Bn at CRPF Langjing, pending disposal of the present Petition, for the ends of justice may call for."

[2] The case of the petitioner is that presently he is working as HC/RO in the 2nd Signal Bn. In the year 2017 Signal bearing No.T.IX-1/18(SCP)-Adm dated 22/12/2017 was

communicated to the OC B/2 Sig Bn giving warning for Summer Chain Posting 2018 as the personnels have completed their normal tenure i.e. 4 years in field and 3 years in static up to 30.06.2018. The petitioner's name was shown in Sl.No.18 of the list of incumbents of signal. In the said signal dated 22.12.2017, it was made very clear that their personnel request for retention or choice posting on compassionate ground can submit their requests.

[3] The petitioner further states that the name of the petitioner is also included in the list of personnel under warning for Summer Chain Posting (SCP), the petitioner made a representation dated 20.04.2018 requesting for allowing him to continue one more year at B/2 Signal Bn or posting at 109 Bn or 32 Bn or 69 Bn for treatment of his ailing old aged parents and wife on medical ground.

[4] Petitioner's wife is suffering from Major Psychiatric Problem and is undergoing treatment since JNIMS Hospital, Porompat, Imphal East, Manipur and the parents of the petitioner also an Outpatient undergoing treatment. The mother of the petitioner has "Mitral Valve Prolapse Gr-II" and the father has incidents of heart attacks and is a known case of "Ischemic Heart Block in Co-Ordinance to Echocandiography Report that is

borderline deleted left Atrium and Left Ventricular Dyslolic Dysfunction" and the treatment is continuing till date. In regard to the diagnosis and treatment of the petitioner's wife and the parents the medical documents are annexed by the writ petitioner as documents in the writ petition.

[5] The petitioner further states that there is a Standing Order No.7 of 2015 for Transfer of Non Gazetted (Executive Technical/Tradesmen) Force Personnel including Mahila Personnel for the Central Reserve Police Force, the Competent authority for issuing Transfer orders for inter Zone in respect of the NG (Executive) personnel that the Transfer Committee comprising of DIG (Estt.) and DIGs (Adm) of all Zones will supervise and ensure fair balance across Zones.

[6] The petitioner further states that in this regard, the petitioner is requesting for retention in the 2nd Signal Bn Unit at CRPF Langjing for one year or posting at 109 Bn or 32 Bn or 69 Bn for treatment of his ailing old aged parents and wife on medical ground and he has not completed his normal tenure period, on compassionate ground, as his wife is suffering from a major mental illness and the parents are old aged and suffering from severe heart ailments requiring constant care and supervision and there is no one in the family except the petitioner who can take

proper care of his wife and the old aged parents, in view of the stipulations laid down in the Standing Order No.07/2015.

[7] In the above circumstances, the petitioner submitted that he has submitted a representation dated 20.04.2018 seeking for retention for one year in the above place as stated above but the respondents issued Signal bearing No.T.IX-1/2018(SCP)-2 Sig dated 14.04.2018 wherein petitioner alongwith other incumbents were transferred and posted to different places of posting. The petitioner was transferred and posted from B/2 Sig Bn to 182 Bn, which is at Srinagar in Jammu & Kashmir and the name of the petitioner is at Sl. No. 121 of the list of incumbents.

[8] Though the petitioner submitted the representation requesting the authorities to retain him for one year in the abovementioned place but in spite of that, the impugned transfer order dated 14.04.2018 was passed. Therefore, on receipt of the said transfer order, the petitioner has submitted another representation on 19.05.2018 requesting for extension of one year but the same was not considered and pending for disposal till date. Later on, by order dated 23.05.2018 bearing No.T.IX-1/2018-Adm dated 23.05.2018 the respondents rejected the request made by the petitioner by way of his representation dated 19.05.2018.

[9] It is the case of the petitioner that as per the Standing Order No.07/2015 which clearly states that transfer and posting of personnel can be deferred by one year on valid medical grounds and the petitioner was seeking for retention in the 2nd Signal Bn for only one year or posting at 109 Bn or 32 Bn or 69 Bn for treatment of his ailing old aged parents and wife on medical ground but the request was not acceded to and he was transferred and posted to 53 Bn at Baramulla in violation of the Standing Order No. 07/2015. Though the request of the petitioner has been denied but the incumbents similarly situated with the petitioner were granted the benefit of deferment of transfer and posting and retained in their place of previous posting and retained in the place of previous posting but the petitioner inspite of having genuine problem was discriminated upon illegally and arbitrarily.

[10] Therefore, in the above circumstances, the petitioner has approached this Court and filed the present writ petitioner seeking the above prayer.

[11] The affidavit-in-opposition was filed by the respondents in August, 2018.

[12] The respondents have submitted their affidavit-in-opposition that the petitioner's request was considered by the competent authorities and rejected being devoid of merit.

[13] With reference to the averment made in paragraph No. 6 of the petition, the respondents denied the whole allegations made therein as it being frivolous and fabricated in nature.

[14] It is submitted that the verity of the case has already been submitted vide preceding paras, yet it is again submitted that transfer policy of signal personnel are being governed as per Standing order No. 11/2002 and its amendment issued vide letter No. T.IX.Instn/Comn dated 02/11/2011 instead of standing order No. 07/2015 (as produced by the petitioner on Annexure A/5 of the writ petition). The petitioner has deliberately produced irrelevant rules/ instructions with a view to mislead this Hon'ble Court and to gain sympathy. In view of above, the instant writ petition filed by the petitioner may please be rejected and suitable orders may be issued to the petitioner to join his duties at his new place of posting.

[15] With reference to the averment made in paragraph No.7 of the writ petition, the respondents denied the allegations made therein as it being untrue, baseless and misleading.

[16] It is respectfully submitted that the petitioner is misleading this Hon'ble Court by producing/ furnishing irrelevant rules/ instructions with regard to transfer policy of Signal personnel in CRPF. As already furnished above, transfer policy of signai personnel are being governed as per Standing Order No. 11/2002 and its amendment issued vide letter No.T.IX. Instn/ Comn dated 02/11/2011, instead of standing Order No. 07/2015 (as producing by the petitioner on Annexure-A/5 of the writ petition). Besides, it is administratively not feasible to retain a signal personnel in a particular place as per his choice by depriving other deserving cases in order to maintain judicious and regional balance in the Force. Further, with regard to matters of transfer/ posting, the interest of administration has to be given primacy and personal difficulties, if any are subservient to it. Hence, posting/transfer order of the petitioner is quite judicious & lawful and there is no material irregularity in the same. In view of above, the instant writ petition may be rejected being devoid of merit.

[17] Narrating the above facts, the respondents represented before this Court through their counsel that the writ petition is devoid of merits and the same may be dismissed.

[18] I have considered the submissions made by the learned counsel of either sides and also perused the materials available on record.

[19] Admittedly, the learned counsel for the petitioner has produced an order dated 12.06.2019 passed in W.P.(C) No. 550 of 2018 wherein the Hon'ble Chief Justice of this Court directed the petitioner to make a fresh representation and the authority was directed to consider such representation and till such consideration of the representation, the interim order granted earlier shall continue. Therefore, in the case of the petitioner too, such order may be passed.

[20] This court perused the order of this court dated 12.06.2019 passed in W.P.(C) No.550 of 2018. In the said case challenge was made to the order of transfer issued by the respondents therein and to permit the petitioner therein to work in M&N Sector HQ as DC (Law). Upon consideration of the submissions made by the learned counsel appearing on either side, the Hon'ble Chief Justice has passed the following order:

> *"9, In this view of the above, the respondents shall reconsider the transfer order in the light of the transfer policy and the exigency of service on its own merits. The authority will consider the issue afresh on the claim of the petitioner.*

10. In this regard, Mr.S.Suresh, learned ASG pointed out that the petitioner should make a fresh representation within two weeks.

11. Mr.M.Devananda, learned counsel appearing for the petitioner has agreed to make such representation within two weeks from the date of receipt of a copy of this order in this regard.

12. In this view of the matter, writ petition is disposed of by directing the petitioner to make a fresh representation within a period of 2 (two) weeks from the date of receipt of a copy of this order. The authority shall consider such representation on or before 29.08.2019 thereafter. Till the representation is considered by the authority as above, the interim order granted earlier shall continue. If no such representation is made as per time prescribed, then Department may proceed as per law.

13. Writ petition is disposed of as above."

[21] Mr. Darakeshwar, Sr.Panel Counsel, Central Govt. submitted that as per the impugned order, the petitioner submitted his representation and the same was considered and rejected as devoid of merit. The scope of interference by this Court with regard to service conditions of the members of Armed Forces is limited and narrow considering the given facts and circumstances of the case this Court finds that the impugned inter-sector transfer was made without looking into the clauses contained in the Standing Order No. 07/2015. In view of the order passed by this Court dated 12.06.2019 passed in W.P.(C) No. 550 of 2018, this Court passed the similar order in W.P.(C) No. 540 of 2017,

W.P.(C) No. 551 of 2017, W.P.(C) No. 552 of 2017, W.P.(C) No. 553 of 2017 and W.P.(C) No. 539 of 2017 dated 19.09.2019 also produced by the learned counsel for the petitioner by representing that similar order may be passed in this writ petition also.

[22] Once this Court has passed an order dated 12.06.2019 in W.P.(C) No. 550 of 2018, W.P.(C) No. 540 of 2017, dated 19.09.2019, etc. this Court is inclined to pass the same order in the line of the same order in this writ petition also. During the course of arguments, the learned counsel for the petitioners have agreed to such recourse and make representations within two weeks from the date of receipt of a copy of this order.

[23] Accordingly, I am inclined to pass the following orders :

a) the writ petition is disposed of by directing the petitioner to make fresh representations to the respondent authorities within a period of 2 (two) weeks from the date of receipt of a copy of this order;

b) the respondent authorities shall consider such representation within a period of 2 (two) months

thereafter, after affording a reasonable opportunity to the petitioner;

c) till the representations are considered by the respondent authorities as stated above, the interim order granter earlier shall continue. If no representation is made as per the time prescribed by this Court then the respondents authority may proceed in accordance with law. No costs.

JUDGE

FR/NFR

Sushil

Yumkham Rother

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