

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 10-02-2020

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.762 OF 2020

M.Vinothbabu

... Petitioner

-vs-

1. Union of India,
rep.by the Secretary-Ministry of Home Affairs,
North Block, Raisina Hill,
New Delhi-110 001
2. The Director General,
Central Industrial Security Force,
13, CGO Complex, Lodhi Road,
New Delhi.
3. The Assistant Inspector General/PERS,
Central Industrial Security Force,
13, CGO Complex, Lodhi Road,
New Delhi.

...Respondents

Petition under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the transfer order bearing reference No.E-38013/BP-15/2019/PCP AC TO DC (EXE)/PERS.I/946, dated 22.10.2019, and set aside the order of the second respondent bearing Reference No.E-38013/06/2017/PERSONAL INTERVIEW-DG/GOs/PERS.I/1411, dated 30.12.2019, rejecting the petitioner's representation, dated 20.12.2019, and consequently direct the second respondent to maintain status quo of the earlier posting order to South Sector Headquarters permitting the petitioner to continue to be on duty at High Court of Madras for a period of One year as sought for as appointed vide No.E-38013/B.P.03/DY.COMDT/GT-2016/PERS.I/83, dated 29.02.2016.

For Petitioner : Mr.R.Johan Sathyan

For Respondents: Mr.G.Rajagopalan,
Addl.Solicitor General of India,
assisted by Mr.G.Babu,
Central Government Standing Counsel.

ORDER

This Writ Petition has been filed, challenging the proceedings of the second respondent, dated 22.10.2019, transferring the petitioner from SS Headquarters, Chennai, to SMPL, Rajkot.

2. The case of the petitioner is that he is in the rank of Deputy Commandant and presently deployed to the Internal Security duty in this High Court.

3. The petitioner was initially appointed in Central Industrial Security Force (CISF) as an Assistant Commandant in the year 2014. He was transferred from CISF Unit, DMRC, Delhi, to CISF Unit, BTBP, Vallur. Thereafter, he was brought in as a Deputy Commandant for taking care of the Internal Security in this High Court. He has now been transferred by the impugned proceedings of the second respondent to SMPL, Rajkot.

4. Learned counsel for the petitioner submitted that the petitioner had a disturbed married life; his marriage ultimately came to be dissolved by a competent Family Court and, therefore, he is mentally disturbed about the entire happenings. That apart, according to the learned counsel, the petitioner has old parents to be taken care of and, therefore, he has sought for only postponement of the transfer by one year, so that he can settle down and, thereafter, join the transferred place. The learned counsel further submitted that the respondents had granted accommodation only till December, 2019, and, thereafter, the petitioner was directed to report to duty in the transferred place. The learned counsel concluded his arguments by submitting that the respondents must be directed to consider the case of the petitioner on humanitarian grounds.

5. Mr.G.Rajagopalan, learned Additional Solicitor General of India, appearing for the respondents, submitted that the second respondent does not have power to continue the service of the petitioner beyond four years. According to him, the petitioner joined the service at Chennai in the year 2014 and has continued here for nearly five years and, therefore, he cannot complain about the impugned transfer. The learned Additional Solicitor General of India further submitted, that as per Section 15 of the Central Industrial Security Force Act, 1968, a Member of the Force is liable to be posted at any place within India and he must be prepared to join duty at any place at any point of time. He also submitted that Posting and Transfer of Gazetted Officers in CISF are governed by the Guidelines, dated 27.07.2015. Attention of this Court is drawn to Clause (3) (iii) of the said Guidelines, which is extracted

hereunder :

''3. Posting Tenure :

(i) xxxx

(ii) xxxx

(iii) The normal period of posting at one station/unit (including SSG) shall be for 03 years extendable by another one year due to administrative/operational exigencies.''

6. Pointing to the above Clause, the learned Additional Solicitor General submitted that the normal period of posting of an officer at one station/unit shall be only for three years, which can be extended by a year due to administrative or operational exigencies, and, beyond that, the respondents do not have power or jurisdiction to retain him/her in the same place. Accordingly, the learned Additional Solicitor General, without going into the merits of the case, submitted that the petitioner cannot be allowed to remain at Chennai in violation of the guidelines, which govern the posting and transfer of the officers in CISF.

7. This Court has carefully considered the submissions on either side and the material available on record.

8. A Counter Affidavit has been filed by the respondents and it is stated therein that there are certain allegations made to the effect that the petitioner was threatening the family of the in-laws and that was also brought to the notice of CISF. The learned Additional Solicitor General submitted that the averments, which have been made in the Counter Affidavit, cannot be completely disregarded, in view of the fact that the marriage has already been dissolved and the allegations made by the petitioner will no longer hold water in deciding the issue on hand.

9. The entire focus of the case now revolves around the jurisdiction of the second respondent to retain a person at a particular station/unit beyond the period prescribed under the Posting/Transfer Guidelines, issued for the officers of CISF.

10. It is an admitted case that the petitioner had been posted in the year 2014 and, thereafter, he was brought in to the High Court as a Deputy Commandant to take care of the Internal Security in High Court.

11. Section 15 of the Central Industrial Security Force Act, 1968, specifically provides that a Member of the Force is liable to be posted at any place within India. The transfer of a Gazetted Officer in CISF is governed by the Guidelines, dated 27.07.2015. Clause 3 (iii) of the said Guidelines, which has relevance to the present case, has already been extracted supra.

It is clear from the said Clause that an Officer cannot be retained in one station/unit beyond three years and it is only extendable by one more year, which too, on administrative or operational exigencies. The petitioner has clearly crossed the maximum period of four years, which is contemplated under the Guidelines. That apart, the second respondent has also accommodated the petitioner till December, 2019.

12. In the considered view of this Court, this Court cannot interfere with each and every case of transfer or rejection of extension of time to join the transferred place, since it involves administrative exigencies and, by such interference, this Court will be putting spokes to the wheel, which will have a direct impact on the functioning of CISF.

13. This Court does not find any legal right in so far as the petitioner is concerned and the plea made by the petitioner is more on the ground of mercy. The second respondent has considered the plea of the petitioner and accommodated him till December, 2019. Beyond that, it was not possible for the second respondent and this Court cannot compel the second respondent to retain the petitioner at Chennai, which, if so done, will go against the Guidelines, which govern the Gazetted Officers in CISF.

14. In view of the above discussion, this Court does not find any ground to interfere with the impugned order of transfer or the rejection of the second respondent to defer the transfer of the petitioner for one year more.

15. Writ Petition is dismissed accordingly. The petitioner is directed to join the transferred place at SMPL Rajkot within a period of two weeks from today. No costs. Consequently, the connected W.M.P.No.923 of 2020 is also dismissed.

s/d-

Assistant Registrar (CS-III)

True Copy

Sub-Assistant Registrar

dixit

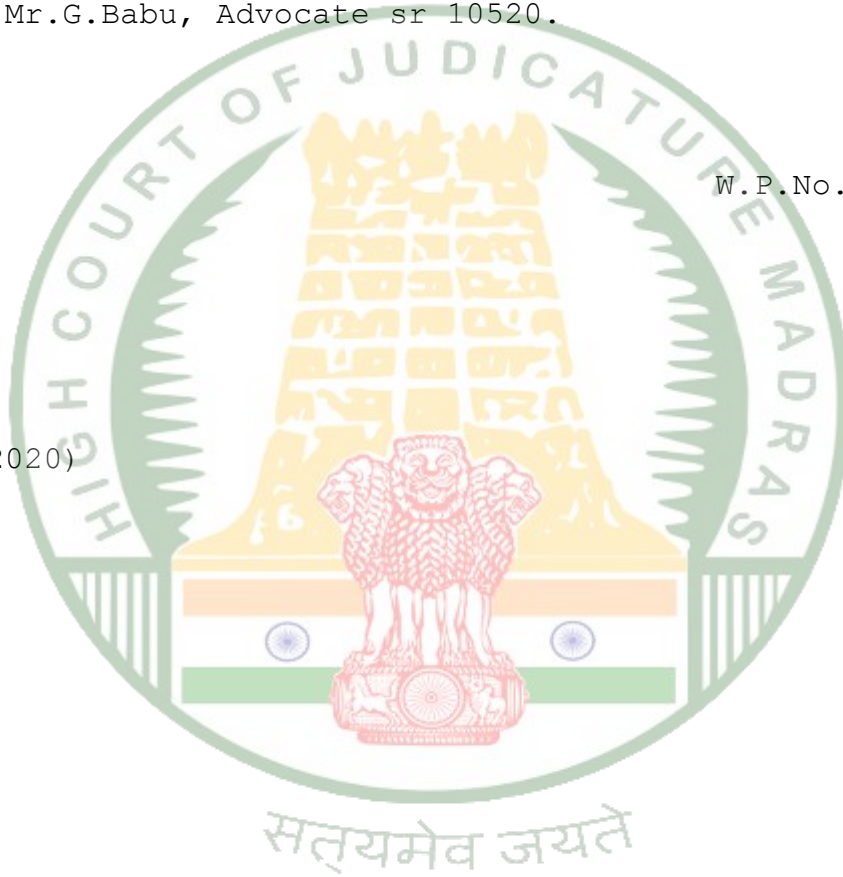
To

1. The Secretary
Union of India,
Ministry of Home Affairs,
North Block, Raisina Hill,
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2. The Director General,
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New Delhi.
- +1 CC to Mr.R.Johan Sathyan, Advocate sr 10468.
+2 Ccs to Mr.G.Babu, Advocate sr 10520.

W.P.No.762 OF 2020

RP (CO)
SP (12/02/2020)



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