

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 05.10.2020

Pronounced on : 16.10.2020

Coram

The Hon'ble Mr. Justice V.PARTHIBAN

Writ Petition No.10167 of 2020

&

W.M.P.No.12363 & 12364 of 2020

T.Thirumurthy

...Petitioner

Vs.

- 1.Union of India,  
rep by The General Manager,  
Southern Railway,  
Chennai - 600 003.
- 2.The Principle Chief Security Commissioner,  
RPF Southern Railway,  
Moor Market Complex 6<sup>th</sup> Floor,  
Park Town, Chennai - 600 003.
- 3.The Senior Divisional Security Commissioner,  
M.A.S., Southern Railway,  
D.R.M. Complex, 5<sup>th</sup> Floor,  
Park Town, Chennai - 600 003.
- 4.The Post Commander/RPF/GRD,  
Southern Railway, Railway Protection Force,  
Guudipoondi, Chennai - 601 201.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, after calling for the concerned records relating to the order No.X/P.677/A.R/IV - Office Order No.85/2020 dated 06.07.2020 passed by the 2<sup>nd</sup> respondent and quash the same and consequently directing the respondent to accept the petitioner's request for voluntary retirement from service submitted on 09.07.2020 and allow all consequential monetary and other service benefits.

|                 |    |                  |
|-----------------|----|------------------|
| For Petitioner  | .. | Mr.M.Gnanasekar  |
| For Respondents | .. | Mr.P.T.Ram Kumar |
|                 |    | Standing Counsel |

ORDER

This Writ Petition is filed for the following prayer;

"To call for the concerned records relating to the order No.X/P.677/A.R/IV - Office Order No.85/2020 dated 06.07.2020 passed by the 2<sup>nd</sup> respondent and quash the same and consequently directing the respondent to accept the petitioner's request for voluntary retirement from service submitted on 09.07.2020 and allow all consequential monetary and other service benefits."

2.The petitioner was originally appointed as Constable in the Railway Protection Force in 1984 and was subsequently promoted as Head Constable in the year 2011. He is presently serving as Head Constable in Gumidipoondi. The grievance of the petitioner herein is that he has been transferred from Chennai to Thiruvendram Central by impugned proceedings dated 06.07.2020.

3.According to the petitioner that due to family circumstances, he was unable to accept the transfer order and he submitted his representation citing health reasons of his wife and also the distance of the place where he is transferred.

4.According to the petitioner, since he is 55 years old and it would be a grave risk to work in a far away place, in the present pandemic crisis, he submitted representation requesting the authority to permit him to go on Voluntary Retirement from service through Registered Post to the third respondent on 15.07.2020. According to the petitioner that he was mentally disturbed and upset as being transferred at his old age, therefore, he had decided to retire from service voluntarily.

5.Initially, notice was issued in the writ petition but this Court found that there was no prompt response from the respondents and time was sought for filing counter and in that circumstances considering the personal and family difficulties faced by the petitioner as highlighted by him in the affidavit, this Court has granted interim stay of the transfer order dated 06.07.2020, on 17.08.2020. Thereafter, matter was adjourned and a counter was filed on behalf of the third respondent.

6.In the meanwhile, a contempt petition was filed in Contempt Petition No.840 of 2020 complaining that the interim order passed by this Court was not complied with. Notice was ordered in the contempt petition by this Court. The counter affidavit dated 30.09.2020 was filed on behalf of the third respondent, it is stated that the petitioner was relieved from Gumudipoondi on 10.07.2020 itself and therefore, the stay order passed by this Court dated 17.08.2020 could not be given effect to.

7.Mr.P.T.Ram Kumar, learned Standing Counsel appearing on behalf of the respondents would submit that the consideration of Voluntary Retirement at this juncture is not possible for two reasons. First of all, the petitioner having been relieved on 10.07.2020 itself, he has to go to the transferred place at Thiruvendram Central and seek appropriate orders on his request in that place. Even otherwise, the request for voluntary retirement is not in proper format in terms of the rule position providing for Voluntary Retirement to the Police Personnel.

8.At this Mr.M.Gnanasekar, learned counsel for the petitioner would submit that after notice was issued in the Contempt Petition, the petitioner was reposted in the same place at Gumudipoondi and this fact was informed to this Court and the Contempt Petition thereafter came to be closed on 01.10.2020. According to the learned counsel, as on date the petitioner is working only under the control of the third and fourth respondents therefore his voluntary retirement request may be considered by these respondents, as according to the learned counsel that there is no legal impediment for consideration of voluntary retirement request of the petitioner herein.

9.This Court after taking note of the above development and submissions of the respective counsel, finds that after all the petitioner wants to leave the service of the Railway Protection Force by taking voluntary retirement, as provided for in the Rules. The objections of the respondents that the petitioner has to join the transferred place and press for his voluntary retirement request, appears to be misplaced for the simple reason that acting under the interim orders passed by this Court, the petitioner has been re-accommodated in the same station and is still working under the control of the third and fourth respondents. That being the case, directing the petitioner to submit his Voluntary Retirement application to the Authority in the transferred place would not arise.

10.In any event, when the petitioner seeks to go on voluntary retirement, it is needless to shunt the petitioner to

go to the transferred place for processing his VRS Application particularly in the face of the fact that this Court consciously, after taking note of the relieving of the petitioner consequent of the transfer, has stayed the order of transfer. In such circumstances, the Authority need not hold on to the procedural requirement, that the impugned order of transfer must be obeyed first, before consideration of his VRS application, when the fact of the matter is the petitioner is borne of the employment under the control of the second and third respondents, as on date. Therefore, this Court is of the view that the Authority who is empowered to take a decision on the request of the petitioner in the present place of his work ought to be directed to consider the VRS Application to be submitted by the petitioner.

11.As regards the other objection is concerned, it is incumbent upon the petitioner to submit VRS Application in a proper format as provided in the Rules and mere giving a letter, according to the learned Standing Counsel for the Railway Protection Force may not suffice to entertain the request.

12.In that view of the matter, the petitioner is directed to submit his voluntary retirement request to the Competent Authorities in proper format in terms of the rule position and the procedure framed thereunder and on such proper VRS Application being made, the Competent Authority/respondents herein are directed to consider the VRS Application of the petitioner and in case the petitioner is eligible to be relieved on acceptance of the VRS Application the Authorities are directed to pass orders accordingly. The Authorities are directed to pass appropriate orders within a period of four weeks from the date of receipt of proper VRS Application from the petitioner.

13.It is made clear that till a decision is taken in the VRS Application by the respondents, the status quo as on date shall be in force.

14.With the above directions, the writ petition stands disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

mrm/pns

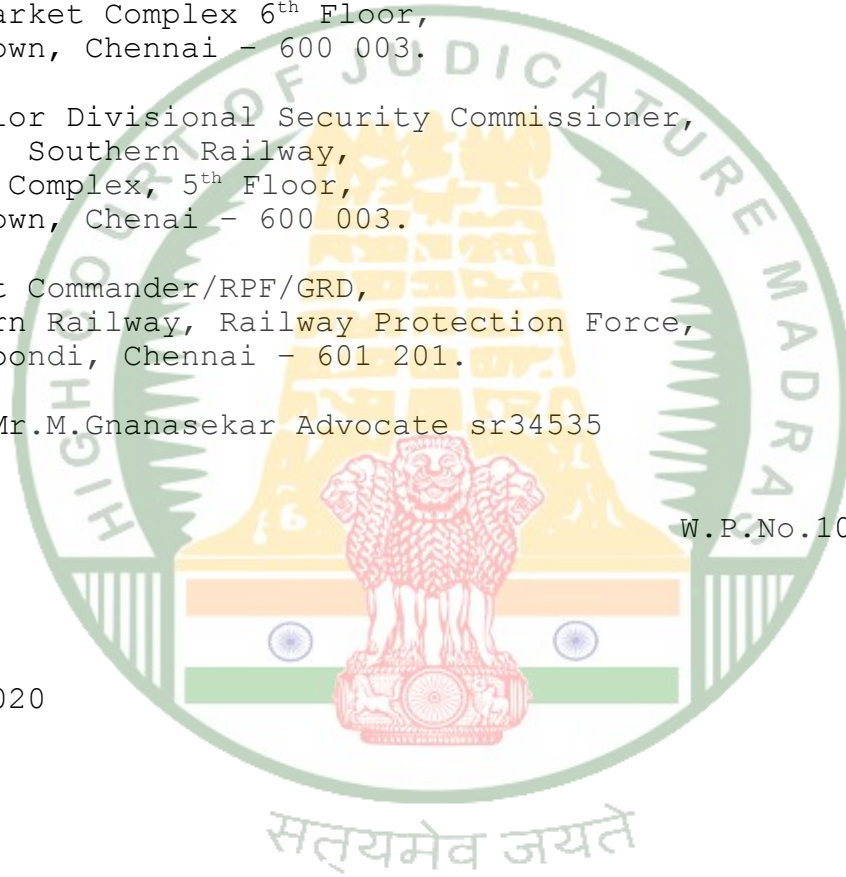
To

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+1 cc to Mr.M.Gnanasekar Advocate sr34535

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