

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 13TH DAY OF JULY, 2021

PRESENT

THE HON'BLE MR. JUSTICE SATISH CHANDRA SHARMA

AND

THE HON'BLE MR. JUSTICE NATARAJ RANGASWAMY

WRIT APPEAL NO.321/2021 (S-TR)

C/W

WRIT APPEAL NO.112/2021 (S-TR)

IN WRIT APPEAL NO.321/2021:

BETWEEN:

D JAGANNATHA RAO,
AGED ABOUT 59 YEARS,
S/O LATE DEVENDRA RAO,
WORKING AS HEAD CONSTABLE- 8700231,
CANTONMENT RAILWAY STATION,
RAILWAY PROTECTION
FORCE OF BANGALORE DIVISION,
SOUTH WESTERN RAILWAY,
BANGALORE-560046.

.... APPELLANT

(BY SRI MUKKANNAPPA S.B, ADVOCATE)

AND:

1. THE DIRECTOR GENERAL,
RAILWAY PROTECTION FORCE
RAILWAY BOARD, RAIL BHAVAN,
NEW DELHI-110001.
2. THE INSPECTOR OF

GENERAL-CUM- PRINCIPAL CHIEF SECURITY
COMMISSIONER,
RAILWAY PROTECTION FORCE,
SOUTH WESTERN RAILWAY,
GADAG ROAD, RAIL SOUDHA,
GADAG ROAD, HUBLI-580020.

3. THE SENIOR DIVISIONAL
SECURITY COMMISSIONER,
RAILWAY PROTECTION FORCE,
BANGALORE DIVISION,
SOUTH WESTERN RAILWAY,
NEAR SANGOLLI RAYANNA CIRCLE,
RAILWAY STATION ROAD,
BANGALORE-560009.

4. THE PRINCIPAL CHIEF
SECRETARY COMMISSIONER,
RAILWAY PROTECTION FORCE,
SOUTHERN RAILWAY,
MORE MARKET COMPLEX,
CHENNAI-600003.

5. THE POST COMMANDER,
RAILWAY PROTECTION FORCE,
BANGALORE CANTONEMENT,
SOUTH WESTERN RAILWAY,
BANGALORE-560046.

... RESPONDENTS

(BY SRI ABHINAY Y.T, ADVOCATE FOR R1 TO R5)

THIS WRIT APPEAL UNDER SECTION 4 OF THE HIGH
COURT ACT, 1961, PRAYING TO SET ASIDE THE ORDER
DATED 11.12.2020 PASSED BY THE LEARNED SINGLE JUDGE
IN W.P.NO.13320/2020 IN SO FAR AS IT RELATES TO
RESERVING LIBERTY TO THE RESPONDENTS TO PROCEED
AGAINST THE APPELLANT EVEN ON THE CHARGE THAT HE
HAS COMMITTED THE CONTEMPT OF DIRECTIONS GIVEN BY
THIS HON'BLE COURT, UNDER THE FACTS AND
CIRCUMSTANCES OF THIS CASE.

IN WRIT APPEAL NO.112/2021:

BETWEEN:

1. THE DIRECTOR GENERAL
RAILWAY PROTECTION FORCE
RAILWAY BOARD, RAIL BHAVAN,
NEW DELHI-110 001.
 2. THE INSPECTOR GENERAL-
CUM PRINCIPLE CHIEF SECURITY
COMMISSIONER,
RAILWAY PROTECTION FORCE,
SOUTH WESTERN RAILWAY,
GADAG ROAD RAIL SOUDHA,
HUBLI-580 020.
 3. THE SENIOR DIVISIONAL
SECURITY COMMISSIONER
RAILWAY PROTECTION FORCE,
BANGALORE DIVISION,
SOUTH WESTERN RAILWAY,
NEAR SANGOLLI RAYANNA CIRCLE,
RAILWAY STATION ROAD,
BENGALURU-560 009.
 4. THE PRINCIPLE CHIEF SECURITY
COMMISSIONER
RAILWAY PROTECTION FORCE,
SOUTHERN RAILWAY COMPLEX,
MORE MARKET COMPLEX,
CHENNAI-600 003.
 5. THE POST COMMANDER,
RAILWAY PROTECTION FORCE,
BANGALORE CANTONMENT,
SOUTH WESTERN RAILWAY,
BENGALURU-560046.
- ...APPELLANTS

(BY SRI ABHINAY Y.T, ADVOCATE)

AND:

D JAGANNATHA RAO,
SON OF LATE DEVNDRA RAO,
AGED ABOUT 59 YEARS,
WORKING AS HEAD CONSTABLE -8700231,
CANTONMENT RAILWAY STATION,
RAILWAY PROTECTION FORCE OF
BENGALURU DIVISION,
SOUTH WESTERN RAILWAY,
BENGALURU-560 046.

...RESPONDENT

THIS WRIT APPEAL FILED UNDER SECTION 4 OF THE KARNATAKA HIGH COURT ACT, 1961, PRAYING TO SET ASIDE THE ORDER DATED 11/12/2020 PASSED IN WRIT PETITION NO. 13320/2020 PASSED BY THE LEARNED SINGLE JUDGE OF THIS HON'BLE COURT ONLY TO THE EXTENT OF THE QUASHING THE TRANSFER ORDER AND CONSEQUENTLY DISMISS THE WRIT PETITIONS.

THESE WRIT APPEALS COMING ON FOR PRELIMINARY HEARING THIS DAY, **SATISH CHANDRA SHARMA J.**, DELIVERED THE FOLLOWING:

JUDGMENT

Writ Appeal No.321/2021 has been filed by Sri D Jagannatha Rao, Head Constable serving Railway Protection Force, posted at Bengaluru. The other connected writ appeal has been filed by the Director General, Railway Protection Force.

2. The undisputed facts of the case reveals that right from inception in service Sri D Jagannatha Rao is

continuing in the State of Karnataka and he was transferred by an order dated 11.11.2020 from Bengaluru to Chennai. He is serving on the post of constable and can be transferred to anywhere in the country as a Head Constable working under the Railway Protection Force, which is a national railway armed force of the union can be transferred to any place in the country.

3. Being aggrieved by the transfer order dated 11.11.2020 a petition was preferred before the tribunal and the tribunal while hearing the matter on the issue of granting interim relief has passed an order dated 12.11.2020 directing the Head Constable Sri D Jagannatha Rao to report immediately at the transferred place. Thereafter the matter has been finally decided by the learned Single Judge in W.P. No.13320/2020 setting aside the transfer order itself. While setting aside the transfer order the learned Judge has also observed that the order dated 30.11.2020 was not complied with by the Head Constable D Jagannatha Rao and therefore action should be initiated against him. The head constable is aggrieved by the observation of the learned single Judge,

whereas the Director General, Protection Force is aggrieved by the order quashing the transfer order.

4. This Court has carefully gone through the order passed by the learned Single Judge. The learned Single Judge has set aside the order on the ground that it is a punitive order keeping in view the judgments delivered in the following cases :

1. *Mathew Muthalali Vs. Revenue Divisional Officer, Calicut and others, reported in 1971 SCC Online Ker 217,*
2. *Balan Vadasseri Vs. District Panchayat Officer, Malappuram and another, reported in 1975 SCC Online Ker 156,*
3. *Biman Kumar Roy Vs. S.Lakshminarayan and Ors. Reported in 1978 SCC Online Cal 108, and*
4. *Somesh Tiwari Vs. Union of India and others, reported in (2009) 2 SCC 592.*

5. On the other hand learned counsel for the employer Abhinay Y T has argued before this Court that the employee in question is a habitual offender. 13 charge memos were earlier issued to him relating to his illegal activities, extortion, misconduct and other misbehaviours, even including insult to the National Emblem during his

service. As he was involved in large number of illegal activities, the employer was left with no other choice except to transfer him out from Bengaluru. After the order was passed by the learned Single Judge he has placed in suspension also. Learned counsel has also placed in reliance the judgment in the case of Mohd. Masood Ahmad vs. State of U.P. and others, reported in (2007) 8 SCC 150 and his contention is that an employee can be transferred even when there are complaints against him.

6. This Court has carefully gone through the documents, on record and as well as the judgment delivered by learned Single Judge. The present case is not a case of normal transfer. A Head Constable who was chargesheeted earlier also on 13 occasions was having large number of complaints in respect of his functioning at Bengaluru Cantonment Railway Station. Right from inception in service he is continuing around Bengaluru only. He was transferred within Karnataka to some other railway stations also, but the fact remains that there are large number of complaints against him and now he is in suspension also.

7. In the considered opinion of this Court, keeping in view the totality and circumstances of the case, the employer was certainly justified in issuing the transfer order dated 12.11.2020 and it was passed keeping in view the administrative exigencies and public interest. The employer is the best judge to post the employee to a particular place keeping in various facts and in the present case the employer has justified its action of transferring the appellant out of Bengaluru and therefore the order passed by the learned Single Judge to the extent of quashing of the transfer order dated 12.11.2020 is hereby set aside.

8. The writ appeal filed by the Director General, Railway Protection Force is allowed and the writ appeal filed by the employee is dismissed.

**Sd/-
JUDGE**

**Sd/-
JUDGE**

ykl