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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 11.06.2021

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.12606 of 2021

and

W.M.P.No.13401 & 13402 of 2021

C. Karthikeyan

... Petitioner

..Vs..

- 1.The Additional Director General
CISF Airport Sector Head Quarters,
Mahipalpur,
New Delhi - 110 037.
2. The Inspector General
CISF Airport Sector -II Head Quarters,
Bangalore - 562 157.
3. The Deputy Inspector General,
Central Industrial Security Force Unit,
Aviation Security Group (ASG),
Chennai - 600 027.
4. The Commandant/Adm.,
CISF Airport Sector-II Head Quarters,
Bangalore - 562 157.
5. The Deputy Commandant
CISF Airport Sector-II Head Quarters
Bangalore - 562 157.
6. The Assistant Commandant/Adm.,
Central Industrial Security Force Unit,
Aviation Security Group (ASG),
Chennai - 600 027.

... Respondents

PRAYER : Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned orders passed by the 5th respondent on behalf of 2nd respondent in his Order No.E-38014/APS-II/Pers/Posting /2nd IUT-21/875 dated 17.04.2021 (SL.No.25 of APPENDIX-A is only concerned) quash the same and to direct the 1st respondent to consider the petitioner request



dated 05.06.2021 on deferment of posting for the period of one year (01.06.2021 to 31.05.2022) under his father medical treatment grounds.

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For Petitioner : Mr.R.Thiyagarajan

For Respondents : Mr.V.Sunil Kumar
CGSC

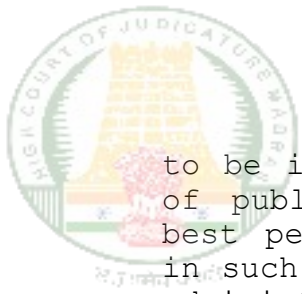
O R D E R

The order of transfer issued by the 5th respondent on behalf of the 2nd respondent in order dated 17.04.2021 is sought to be quashed in the present writ petition. The petitioner seeks further direction to the 1st respondent to consider his request dated 05.06.2021 on deferment of posting for a period of one year on the ground that his father is under medical treatment.

2. The petitioner is presently serving as the Sub Inspector/ Executive in CISF under the 3rd respondent and states that his father is now aged about 97 years old. The father of the petitioner is taking treatment and therefore, his presence is required to assist his father to continue the medical treatment at Chennai. The impugned order of transfer has been issued transferring the writ petitioner from Chennai CISF Unit to ASG Hyderabad and in the event of joining in the new station, the petitioner cannot take care of the health of his father. Thus, the petitioner submitted a representation to the Authorities to defer the order of transfer for a period of one year. The said request is yet to be considered and in the meanwhile, the present writ petition is filed.

3. Perusal of the order impugned dated 17.04.2021 reveals that 842 officials were transferred to various places on administrative grounds. Administrative transfers are the prerogative of the Authorities competent and the Court cannot interfere with such administrative transfers issued in the interest of administration and to maintain efficiency level in the public administration more specifically, in the Uniformed Services.

4. Transfer is an incidental to service, more so, a condition of service. An order of transfer can be challenged in a writ petition, only if the order is passed without jurisdiction or by way of punishment or on mala fide grounds. Even in case of raising an allegation of mala fide, the Authority against whom such an allegation is raised must be impleaded as a party respondent in his personal capacity in a writ proceedings. Thus, all other administrative transfers ought



to be implemented scrupulously by all concerned in the interest of public administration and the Authority competent are the best persons to decide the transfer and postings. Interference in such matters would cause not only inconvenience to the public administration, but create a sort of discrimination amongst the officials working in Uniformed Service. This apart, any such interference should not cause any prejudice to the interest of the other officials who all may also be interested in working in a particular place of their choice on various personal grounds.

5. Undoubtedly, every citizen of our Great Nation may have one or other grievances of his own and therefore, the nature of the grievances and the consideration to be shown is to be decided by the Competent Authorities and certainly not by the High Court. The men and women in the Uniformed Services are bound to work in the interest of public at large. An amount of sacrifice is imminent and courage in Uniformed Services is of paramount importance. An expected level of confidence and courage to be shown by the personnel of Uniformed Services is part of their service conditions and thus, cannot be compromised or neutralised by showing any misplaced sympathy by the High Courts. Uniformed Services are pride of our Great Nation. Thus, any sort of compromise on discipline would cause serious injury to the maintenance of security.

6. The officials of the CISF working in various Airports across the country are sensitive places and therefore, administrative transfers are imminent to maintain the level of efficiency and to protect the safety and security in the Airports. Allowing personnel to continue for a long time in one Station may not be preferable and these all are the aspects to be weighed by the Competent Authority taking note of various factors and therefore, the High Court cannot interfere with such administrative transfers issued by the Competent Authorities.

7. The question may arise certain officials are facing great difficulties due to family circumstances and personal grievances. Undoubtedly, those grievances are also to be looked into in order to keep the morale amongst the men and women in the Uniformed Services. In respect of those grievances, the Head of the Department or the Ministry has issued certain guidelines for redressal and the aggrieved personnel has to approach the appropriate authority for the purpose of redressing the grievance and thus Authorities are empowered to consider those representations based on the guidelines and by conducting an enquiry by ascertaining the facts and genuineness of the grievances put forth by the officials. Such considerations require deliberation and such an exercise cannot be done by the High Court in writ proceedings under Article 226 of the Constitution of India. Thus, the Authorities Competent, on



receipt of any such representation regarding the personal grievances, are bound to consider the same in the light of the guidelines or rules in force and take appropriate decision.

8. In view of the principles discussed in the aforementioned paragraphs, an order of administrative transfer cannot be stayed or set aside on misplaced sympathy by the High Court. In the event of interference in such circumstances, the same will set a bad precedent and would be cited by other employees for the purpose of setting aside those administrative transfers. This apart, the administrative transfers are the prerogative of the Authorities Competent, who all are expected to exercise such powers judiciously and to maintain an effective and efficient administration. In the event of erroneous exercise alone, the Court can interfere and not otherwise. Thus, the High Court is expected to be cautious while entertaining a writ petition against an order of administrative transfer. Any interim order granted in a routine manner would affect the public administration as the practice of keeping the writ petitions pending for many years is the usual practice prevailing. In such circumstances, if an employee is allowed to continue in one Station indefinitely, the same would cause injury to the discipline and decorum of the Uniformed Services.

9. It is submitted that the writ petitioner in the case on hand submitted a representation to the Competent Authority. Thus, the Authority Competent is bound to look into the grievances put forth by the petitioner and take a decision by following the guidelines and rules in force and communicate the same to the petitioner. However, this Court is not inclined to interfere with the order of administrative transfer, which is under challenge in the present writ petition.

10. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are also closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar



vri/Svn

To

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Chennai - 600 027.
- +lcc to Mr.R.Thiyagarajan, Advocate Sr.27779
+lcc t Mr.V.Karnan, Advocate Sr.27782

WP No.12606 of 2021

rsv[co]
srg 16/07/2021