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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.04.2022

CORAM:

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P.No. 17377 of 2021  
and WMP.Nos. 18428 & 18429 of 2021

C.Livingston

... Petitioner

Vs.

1. The Deputy Inspector General of Police (Establishment)  
Office of Directorate General,  
Central Reserve Police Force,  
Block No.1, CGO Complex,  
Lodhi Road, New Delhi -110003.

2.The Inspector General of Police,  
Karnataka - Kerala Sector (KKS)  
Central Reserve Police Force (CRPF)  
Group Centre, Doddaballapur Road,  
Yelahanka, Bengaluru,  
Karnataka - 560064.

3.The Commandant,  
77 Battalion,  
Central Reserve Police Force,  
Poonamalle, Chennai -600056.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order of the third respondent in No.T.IX.02/2021-77-EC-1 dated 9.8.2021 and quash the same and direct the Respondents to retain the petitioner in the present station itself namely coimbatore in the light of the orders passed by this Honourable court in S.Dakshinamurthy Vs The Inspector General of Police southern sector Hyderabad in W.A.No.1273 / 2017 dated 25.10.2017.

For Petitioner : Mr.P.Manojkumar

For Respondent : Mr.S.N.Parthasarathi, SCGSC- R1& R2  
Mrs. S.Anitha, Spl.GP - R3



## ORDER

According to the learned counsel for the petitioner, the petitioner has joined service as Constable in Central Reserve Police Force and served in various places. While the petitioner was serving in F-Company of 77 Battalion at Coimbatore, the 3<sup>rd</sup> respondent had passed the impugned order transferring the petitioner to 67 Battalion at Mehalaya. The petitioner made representation to the respondent to consider the petitioner's request of the petitioner stating reason that he is suffering from severe heart disease and having bilateral avascular necrosis (loss of blood supply to the bones) and he cannot withstand the extreme cold and require home food. As a result of which, his health condition will be deteriorated to maximum extent.

2. The learned counsel for the petitioner has further submitted that so far the petitioner has obeyed the orders of the respondent. After completing 20 years of service during the year 2023 and due to prevailing health conditions, as per Rules, the petitioner preferred voluntary retirement from service (VRS), therefore, the respondent has to consider the representation of the petitioner to retain him in the present place i.e Coimbatore or any other place nearby Tamil Nadu. To that extent the petitioner has also made representation to reconsider the impugned order.

3. The learned Senior Central Government Standing Counsel appearing for the respondents 1 & 2 objected the contentions made by the learned counsel appearing for the petitioner and submitted that in light of the several decision of the Hon'ble Supreme Court, the petitioner does not have any legal right to challenge the transfer order made on administrative reasons.

4. It is pertinent to rely upon the decision of the Hon'ble Supreme Court in the case of Mrs. Shilpi Bose Vs. State of Bihar reported in AIR 1991 SC 532 has held that the Courts should not interfere with the transfer orders made on administrative reasons unless there is violation of any mandatory statutory rule or on the ground of malafide. The relevant portion of the judgment is extracted below;

"In our opinion, the courts should not interfere with a transfer order which are made in public interest and for administrative reasons unless the transfer orders are made in violation of any mandatory statutory rule or on the ground of malafide. A Government servant holding a



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transferable post has no vested right to remain posted at one place or the other, he is liable to be transferred from one place to the other. Transfer orders issued by the competent authority do not violate any of his legal rights. Even if a transfer order is passed in violation of executive instructions or orders, the Courts ordinarily should not interfere with the order of executive instructions or orders, the Courts ordinarily should not interfere with the order instead affected party should approach the higher authorities in the Department...."

5. Further in the case of LM.Salim & another Vs. Principal Chief Security Commissioner, Railway Protection Force, Southern Railway Chennai & 3 others, wherein I had an occasion to deal with the similar issue in detail by relying upon various decisions of the Hon'ble Supreme Court and held that in the absence of any such legal ground, routine administrative transfers can never be interfered with by the Constitutional Courts. The relevant portion is extracted hereunder;

"7. That apart, administrative transfers are the prerogative of the Department concerned and the competent authorities are the best persons to assess and act accordingly. However, those competent authorities should act in the interest of public and in the event of any illegality or some personal motive, then alone, the employee can approach the Court of law for appropriate remedy. In other words, if an order of transfer is issued with malafide intention or in violation of the statutory rules, then alone a writ petition can be entertained. Even in such cases, the allegation of malafide intention must be substantiated in the writ proceedings and the official concerned must be impleaded as party respondents in the writ proceedings. In the absence of any such legal ground, routine administrative transfers can never be interfered with by the Constitutional Courts. Transfer is an incidental to service, more so, a condition of service. Public servant is liable to work wherever he is posted in the interest of public administration. On accepting the offer of appointment, a person is agreeing for the conditions of service and transfer being incidental, he must be in a position to work, wherever he is posted.



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9. In *State of U.P. and others vs. Siya Ram and others* [(2004) 7 SCC 405], the Honourable Supreme Court has held that unless the order of transfer is shown to be an outcome of mala fide exercise or stated to be in violation of statutory provisions prohibiting any such transfer, the Courts or the Tribunals normally cannot interfere with such orders as a matter of routine, as though they were the appellate authorities substituting their own decision for that of the employer / management, as against such orders passed in the interest of administrative exigencies of the service concerned.

10. Further, in *Airports Authority of India vs. Rajeev Ratan Pandey and others* [(2009) 8 SCC 337], the Honourable Supreme Court has held that in the matter of transferring Government employees, the scope of judicial review is limited and the High Courts should not interfere with an order of transfer lightly.

11. In the instant case, on perusal of the materials available on records, this Court does not find any mala fide exercise or violation of any statutory provision on the part of the respondents and therefore, the impugned transfer orders and the consequential relieving orders do not warrant any interference of this Court and the writ petitions are therefore liable to be dismissed."

6. Admittedly, the impugned transfer order issued to the petitioner was made on administrative reasons and based on the request made by the petitioner, the petitioner was retained for two years in the present station by the respondent on medical grounds and thereafter the petitioner was directed to report duty at the transferred place i.e 67 Battalion, Maghalaya. In view of the decisions cited supra, the impugned transfer orders issued on administrative grounds cannot be interfered with by this Court.

7. However, taking note of the fact that the petitioner is suffering from severe health ailments, which has been



substantiated by way of medical reports and also considering the fact that the petitioner has submitted application for voluntary retirement from service due to his prevailing health condition, this Court is of the view that his request to retain him in the present station or near by the State of Tamil Nadu is reasonable and no prejudice would be caused to the respondents. Accordingly, the following directions are issued;

- i. The petitioner is directed to make a fresh representation along with additional particulars in regard to his medical treatment to the 3<sup>rd</sup> respondent, within a period of two weeks from the date of receipt of a copy of this order.
- ii. On receipt of such particulars, 3<sup>rd</sup> respondent is directed to consider the same and pass appropriate orders in accordance with law, as expeditiously as possible, preferably within a period of four weeks thereafter.
- iii. Interim order of status-quo already granted by this Court shall continue till final orders passed by the 3<sup>rd</sup> respondent.

8. With the above directions, the writ petition stands disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

SD/-  
ASSISTANT REGISTRAR

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SUB ASSISTANT REGISTRAR

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To

1. The Deputy Inspector General of Police (Establishment)  
Office of Directorate General,  
Central Reserve Police Force,  
Block No.1, CGO Complex,  
Lodhi Road, New Delhi -110003.
2. The Inspector General of Police,  
Karnataka - Kerala Sector (KKS)  
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Karnataka - 560064.



3.The Commandant,

77 Battalion,

Central Reserve Police Force,

Poonamalle, Chennai -600056.

+1cc to the Government Pleader SR.23860

+1cc to Mr.S.N.Parthasarathi, Advocate Sr.24458

+1cc to Mr.J.Lakshmi Narayanan, Advocate Sr.23553

W.P.No. 17377 of 2021

and

WMP.Nos. 18428 & 18429 of 2021

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srg 11/05/2022