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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.06.2022

CORAM:

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

W.P.NO.19652 OF 2020

AND

WMP.NOS.24284 & 24288 OF 2020

Sumathi Ramasitapathy

... Petitioner

Vs.

1. The Director (Liner and Passenger Services)
The Shipping Corporation of India Limited
245, Madame Cama Road,
Nariman Point, Mumbai-400021.
2. The General Manager (Personnel and Administration)
The Shipping Corporation of India Limited
245, Madame Cama Road,
Nariman Point, Mumbai-400021.
3. The Deputy General Manager
(Personnel and Administration Division)
The Shipping Corporation of India Limited
245, Madame Cama Road,
Nariman Point, Mumbai-400021.
4. The Regional General Manager,
The Shipping Corporation of India Limited
Regional Office, No.17, Jawahar Building,
Rajaji Salai, Chennai - 600001.

... 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 of the 3rd respondent in its P&A/HR/LD 185 dated 13/11/2020 and the consequential order of the 4th respondent in its Ref.SCI./CHN/RGM /19 dated 18/11/2020 and quash the same.



For Petitioner : Mr.V.Vijayashankar

For Respondents : Mr.Joy Thattil Ittoop

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ORDER

The prayer sought for in the writ petition is to call for the records of the 3rd respondent in its P&A/HR/LD 185 dated 13/11/2020 and the consequential order of the 4th respondent in its Ref.SCI./CHN/RGM /19 dated 18/11/2020 and quash the same.

2. The learned counsel for the petitioner has submitted that the petitioner has joined as Junior Officer at Mumbai in the respondent Corporation and now working as Chief Manager at Chennai. As per CVC guidelines dated 11.09.2019, officers should not be retained for more than three years in sensitive posts. While that being so, the petitioner has completed ten years of service at Chennai in the respondent Corporation and put in charge of purchase and contracts from 02.06.2010. The 3rd respondent has passed the impugned order transferring the petitioner from Chennai to Mumbai. The said impugned order is under challenge before this Court.

3. According the learned counsel for the petitioner, the petitioner has made several representations to the respondent to revoke the transfer order on the ground that the petitioner's daughter was pursuing her 12th standard in Chennai and also on considering the pandemic situation. But the said request was not considered by the respondent. Hence the writ petitioner approached this Court by way of present writ petition. At the time of admission, this Court has granted interim stay of operation of the impugned transfer order. According to the learned counsel for the petitioner, the impugned order came to be passed by the respondent by relying upon the letter received from CVC, therefore the said impugned order is punitive in nature and the same is liable to be quashed.

4. The learned counsel for the respondent has filed counter affidavit, wherein it is stated that the petitioner was working as the Chief Manager, Purchase & Stores in SCI, Chennai, which is a sensitive post for more than 10 years. The petitioner was put in charge of the Purchase & Stores Department including Contracts from 02.06.2010. As per the aforesaid circular, the petitioner cannot continue in the post for more than ten years.

5. The learned counsel for the respondent has further submitted that the Chief Vigilance Officer of SCI has addressed a letter dated 03.11.2020 to the 1st respondent, forwarding a



complaint received from the Central Vigilance Commission pointing out the violation of the Central Vigilance Commission circulars by the petitioner and calling upon the 1st respondent to submit explanation for not transferring the petitioner and reiterating that transfer of officers holding sensitive posts beyond the prescribed years should be strictly carried out. In view of the aforesaid communication, the petitioner was transferred from Chennai to Mumbai on administrative reasons. Therefore there is no malice in passing the impugned order and the same does not require any interference by this Court.

6. Heard both sides and perused the materials available on record.

7. The learned counsel for the petitioner has submitted that the petitioner's elder daughter who was studying in a medical college in Coimbatore, while returning from college, had met with a road accident and died. Further, pursuant to the interim orders granted by this Court, the petitioner has been continuing in the present station viz., Chennai, hence the learned counsel for the petitioner made a request before this Court to reconsider the transfer orders issued by the respondent on the aforesaid grounds.

8. The contention of the learned counsel for the respondent is that this Court on considering grievance made by the petitioner in the affidavit, has granted interim stay of the operation of the transfer order issued by the respondent. The said grievance has now over, therefore the petitioner cannot seek the same relief citing the same grievances.

9. Though the learned counsel appearing for the respondent contended as above, in view of the fact that the impugned transfer order was issued to the petitioner only based on the letter dated 03.11.2020 sent by the Chief Vigilance Office to the respondent and the said transfer order was issued during the midst of Covid 19 pandemic and also considering the pathetic situation of the petitioner's family who lost their elder girl child in a road accident recently, this Court feels that the petitioner's transfer from Chennai to Mumbai requires reconsideration by the respondents on humanitarian grounds. Accordingly, the following directions are issued;

- i. The writ petitioner is directed to submit a fresh representation to the respondents within a period of two weeks from the date of receipt of a copy of this order.
- ii. Upon receipt of such representation, the respondent is directed to reconsider the petitioner transfer order on



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humanitarian grounds by considering the earlier performance and the appreciation received by the petitioner from her higher officials and pass appropriate order as expeditiously as possible, within a period of six weeks thereafter.

iii. Till such time, the interim order granted by this Court dated 21.12.2020 shall be in force.

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

Sd/-
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

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To

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The Shipping Corporation of India Limited
Regional Office, No.17, Jawahar Building,
Rajaji Salai, Chennai - 600001.

+1cc to M/s.V.Vijay shankar, Advocate, S.R.No.40223

+1cc to M/s.Joy Thattil Ittoop, Advocate, S.R.No.39737

W.P.No.19652 of 2020
and
WMP.Nos.24284 & 24288 of 2020

GPL(CO)
RLP(29/06/2022)