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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 6.4.2022

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.NO.24164 OF 2021

AND

W.M.P.NO.25488 OF 2021

G.Maruthupandian

... Petitioner

Vs.

1 The Special Director General of Police,
South Zone, Central Reserve Police Force (CRPF),
Chandrayangutta, Keshogiri,
Hyderabad, Telangana-500005.

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

3 The Commandant,
77 Battalion, Central Reserve Police Force,
Poonamallee, Chennai-600 056.

... Respondents

Prayer :

Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the third respondent in No. T.IX-1/ 2021 AdjT/77 dated 25.10.2021 and quash the same in so far as the petitioner is concerned and direct the Respondents to retain the Petitioner in the Present station itself namely Chennai for availing specialist treatment in the light of the orders passed by this Court in S.Dakshinamurthy Vs.The Inspector General of Police Southern Sector, Hyderabad in W.A.No.1273 of 2017 dated 25.10.2017.

For Petitioner : Mr.P.Manojkumar

For Respondent : Ms.Sangeetha Rajkumar for
Mr.P.G.Santhosh Kumar SPC



O R D E R

According to the petitioner, when the petitioner was working as Police Constable in Central Reserve Police Force (CRPF), the third respondent passed the impugned transfer order transferring the petitioner to Baliguda, Kandhamal District, Odisha State. According to the petitioner, the petitioner underwent left eye surgery on 4.3.2017. The petitioner also underwent renal transplantation and therefore, he could not able to walk long distance to carry heavy weight. Due to the aforesaid ailments, his health condition is deteriorated. The petitioner further submitted that he completed 20 years of service in CRPF department and he is going to submit Voluntary Retirement Service. For the short period, the petitioner was transferred to the far away Station from Chennai which would further deteriorate his health condition. On this aspect, the petitioner seeks to interfere with the impugned order passed by the respondent.

2. The respondent filed counter affidavit wherein it is stated that the petitioner cannot take advantage of the aforesaid medical ground and refused to join duty in the transferred station. Such transfer order is condition to service and in the light of the decision of this Court in various decision, he cannot have any legal right to seek such transfer. According to the respondents, due to administrative reason, the petitioner has been transferred to Odisha. The department is already having a large number of personnel who are placed in low medical category due to injuries sustained in various counter insurgency operation, law and orders duties, militant operations etc. Efforts are being taken to rehabilitate such personnel by detailing them on various skill development courses etc. No such personnel in low medical category/poor health history are forced to perform duties which are beyond their physical competency or against the advice of the treating medical officers. During his tenure of posting in the third respondent office, the petitioner has not performed a single 'active duty' which is expected of a jawan in CRPF, owing to his ill health. Further, as per CCS (Pension) Rules, 1972, he will be able to apply for voluntary retirement only after completion of 20 years of qualifying service. The petitioner's medical needs and requirements have been well taken care of and as such the grounds put forth by the petitioner are unacceptable.

3. 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, 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 Chennai or transfer to Avadi. To that extent the petitioner has also made representation to reconsider the impugned order .

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4. 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 has no legal right to challenge the transfer order made on administrative reasons.

5. 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 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...."

6. 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



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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.

.....

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 malafide 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."

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7. 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 three 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 127 Battalion CRPF located at Kandhamal, Odhisha. In view of the decisions cited supra, the impugned transfer orders issued on administrative grounds cannot be interfered with by this Court.

8. 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 in the State of Tamil Nadu is reasonable and no prejudice would be caused to the respondents. Accordingly, the following directions are issued to the respondents.

- i. The petitioner is directed to make a fresh representation along with additional particulars in regard to his medical treatment to the 3rd respondent, within a period of two weeks from the date of receipt of a copy of this order.
- ii. On receipt of such representation, the third 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 stay already granted by this Court shall continue till final orders passed by the third respondent.

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

Sd/-
Assistant Registrar(CS IV)

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Sub Assistant Registrar



To

1 The Special Director General of Police,
South Zone, Central Reserve Police Force (CRPF),
Chandrayangutta, Keshogiri,
Hyderabad, Telangana-500005.

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

3 The Commandant,
77 Battalion, Central Reserve Police Force,
Poonamallee, Chennai-600 056.

+1cc to Mr.J.Lakshmi Narayanan, Advocate, S.R.No.23892

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SKM(CO)
PM/17/05/2022