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W.P.No.29727 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED:10.11.2022**

CORAM:

**THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE**

**W.P.No.29727 of 2022 &  
W.M.P.No.29119 of 2022**

Samathanadurai. I

... Petitioner

VS.

1.The Commandant,  
2 Signal BN CRPF,  
Chandrayankutta,  
Hyderabad,  
Telegana.

2.The Commandant,  
77, BN CRPF Special Jail Complex,  
Karaiyan Chavadi,  
Poonamallee,  
Chennai - 600 056.

... Respondents

**Prayer:** Writ petition filed under Article 226 of the Constitution of India for writ of Certiorarified Mandamus, calling for the records to the impugned order of the first respondent in under Ref.T.IX-1/2022-OPS-2 Signal, dated 24.09.2022 and quash the same insofar as the petitioner is concerned and direct the first respondent to retain the petitioner in the present station in 77 Battalion at Karaiyan Chavadi, Poonamallee, Chennai on the medical ground of petitioner's wife and son namely Palaniselvi and Irwin Pascal in



accordance with the Central Reserve Police Force (CRPF) standing Order  
04/2022 dated 27.09.2022.

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For Petitioner : Mr.Xavier Felix

For Respondents : Mr.V.T.Balaji,  
Senior Panel Counsel

### ORDER

This Writ Petition has been filed challenging the order dated 24.09.2012 passed by the first respondent rejecting the petitioner's request for retaining him in Chennai.

2. Mr.V.T.Balaji, learned Senior Panel Counsel accepts notice on behalf of the respondents. By consent of both the parties, this writ petition is taken up for final disposal in the admission stage itself.

3. The petitioner is a Head Constable in CRPF. He is presently stationed at Chennai. The petitioner has made a request based on the transfer policy of the CRPF to retain him in Chennai on the ground that his wife and son are both unwell. The petitioner contends that his son is



an Autistic patient and his wife is also suffering from medical ailments.

According to him, both of them are depending on him for their survival. In such circumstances, by exercising his right as per clause 7 of the transfer policy, he has given a representation to the respondents to retain him in Chennai and not to post him at Rajahmundry as there is a proposal by the respondents to transfer him there. The petitioner has filed medical certificates of his wife and son to prove their medical ailments. Clause 7 of the transfer policy dated 27.09.2022 of the CRPF reads as follows:

*"7.Special Category /Retention*

*Any officer/official/personnel can apply for special category/retention. Only exception and genuine cases will be considered under these two categories. If any officer/official/personnel feel that his case should be considered separately under Special or retention, then he will have to apply along with required documents as main grounds for considering under this category.*

*Merely applying under these categories does not create any right for posting under these categories. The Board of officers at Unit/Sector/Directorate level will scrutinize their cases and only suitable cases will be finally allowed. If found suitable, he may be posted considering the request, facilities of treatment, provision to keep family,*



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*available vacancies and other administrative/operational constraints etc., to a suitable places which may even be different from preferences given. The cases which can be considered under this category may be as under:*

***(i) On Medical grounds***

*Posting of officers/officials/personnel on medical grounds (including spouse and children) suffering from following illness may be considered based on the request or as per availability of treatment facilities subject to availability of vacancy. Their posting may be considered as per their status of health as certified by Medical Officer/Composite Hospital or recent medical documents:-*

|                                   |                           |                         |                  |
|-----------------------------------|---------------------------|-------------------------|------------------|
| 1) Infertility                    | 2) Cancer                 | 3) Paralytic Stroke     | 4) Renal failure |
| 5) Coronary artery<br>Thalassemia | 6) Parkinson's<br>disease | 7) Motor-neuron disease |                  |

***(ii) Officers/Officials/personnel having Autistic child***

*Such officers/officials/personnel can be considered for posting to suitable places keeping mind facilities of treatment, available vacancies and other administrative/operational constraints etc.*

*(iii) Apart from above, the following cases may be considered under special category subject to Ops/Adm constraints and availability of vacancies:-*

***a) Divyang warriors***



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*b) Injured seriously in current posting in operational duties and undergoing treatment.*

*c) Sudden death of spouse or child.*

*d) Gallantry Medal awardees in current posting*

***(iv) Couple posting***

*Where both Husband and Wife are members of CRPF can apply for couple posting. Their cases will be examined and may be considered for posting in alternate tenure of SCT at same place or any other alternate place/Unit which are nearby and not more than overnight journey.*

***(v) Veer Nari***

*Veer Nari may be rotated within their home State or neighbouring State as per tenure policy.*

***(vi) Terminal Posting***

*The Officers/Officials/personnel who are due to retire within two years to be reckoned from the cut-off date, may be considered for a terminal posting to his place of preference or to the nearby place/station/region covered by overnight journey by train provided he was not posted there in previous tenure.*

*(vii) The Officers/Officials/personnel who have not availed home state/choice posting in 20 years of service."*

According to the petitioner, being a genuine case, he should not be transferred to Rajahmundry.



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4. Heard Mr.S.Xavier Felix, learned counsel for the petitioner and Mr.V.T.Balaji, learned Senior Panel Counsel appearing for the respondents.

5. However, it is an admitted fact that till date no final orders of transfer have been issued transferring the petitioner from Chennai to Rajahmundry or any other place in India. While that be so, the question of entertaining this writ petition, at this stage will not arise. The petitioner has approached this Court prematurely. However, the respondents will have to consider the petitioner's case before transferring him to any other places in India from Chennai based on his representation.

6. Under the impugned order dated 24.09.2022 passed by the first respondent, no reasons have been given for rejecting the petitioner's request. Necessarily in view of the contentions made by the petitioner that both his wife and son are suffering from medical ailments and they need his constant support, the respondents will have to give due consideration to the same before taking a decision for transferring the petitioner from Chennai to any other place in India.

7. Since the writ petition has been filed prematurely by the petitioner,



this writ petition is **disposed of** by directing the respondents to consider the petitioner's representation dated 11.08.2022 requesting for retaining him at Chennai in view of the reasons stated supra on merits and in accordance with law and only thereafter, take a final decision for transferring the petitioner from Chennai to any other place in India. No costs. Consequently, connected miscellaneous petition is closed.

10.11.2022

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Index:Yes/No

Speaking/Non-speaking orders

To

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**ABDUL QUDDHOSE, J.**

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