

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.12139 OF 2019

Rajkumar Baba Pal.

....Petitioner

Versus

Director General Railway
Protection Force & Ors.

....Respondents

...

Ms. Meghna A. Goyalani for the Petitioner.

Ms. Shehnaz V. Bharucha i/b. A. A. Ansari for Respondents.

...

**CORAM: NITIN JAMDAR, ACJ &
SANDEEP V. MARNE, J.
DATE : 15 JUNE 2023.**

ORDER - (Per – Sandeep V. Marne, J.):

By this petition, Petitioner challenges order dated 8 March 2019 by which he is transferred and directed to report to 14th Battalion, Railway Protection Special Force, New Cooch Behar (West Bengal). It appears that in pursuance of the Movement Order, he has already reported at the place of transfer. Petitioner contends that he was yet to complete his permissible tenure in the 12th Battalion and was therefore not due for being transferred.

2. The learned counsel appearing for Petitioner would submit that Petitioner had requested for his transfer in the year 2013 and in pursuance of that request, order dated 13 July 2013 was issued transferring him to North Eastern Railway (Gorakhpur, Uttar Pradesh). However, on account of Petitioner facing criminal prosecution, the transfer order was not enforced and Petitioner was continued in 12th Battalion, Thakurli. Relying on Guideline No. D (iii) of the transfer guidelines issued by the Railway Board on 28 December 2017, she would contend that the criminal prosecution continue to remain pending on the day on which impugned transfer order was issued on 8 March 2019 and that therefore Petitioner was not due to be transferred in view of guideline No. D(iii). She would further contend that under transfer guideline No.13, Petitioner cannot be transferred out unless he has completed tenure of 10 years at a stretch and 15 years in broken spells.

3. Learned counsel appearing for Respondent No.1 to 4 would oppose the petition.

4. We have considered the submissions. Petitioner came to be posted in 12th Battalion, RPSF Thakurli, Mumbai on 26 January 2006. Except for deputation during the period from 25 July 2009 to 14 January 2013 at Lucknow, he continued functioning at 12th Battalion RPSF Thakurli Mumbai till the impugned order of transfer was issued. Thus, except for gap of about 3 and half years, Petitioner has been functioning

at 12th Battalion RPSF, Thakurli since 26 January 2006. By the impugned transfer order dated 8 March 2019 he has been transferred to 14th Battalion, New Cooch Behar (West Bengal).

5. Petitioner does not have any vested right to remain posted at a particular station. He has worked at Thakurli, Mumbai for a substantially long period of $3 + 7 = 10$ years. In such circumstances it cannot be said that Petitioner's transfer to 14th Battalion, New Cooch Behar (West Bengal) can be termed as arbitrary.

6. Petitioner's reliance on the transfer guidelines is of little assistance to his case. Firstly, these are merely guidelines which cannot partake character of statutory rules. The transfer guidelines are formulated for guidelines of the department and the same do not create any enforceable right in favour of an employee. Secondly, guideline No. D(iii) envisaging retention of members of the Force facing disciplinary inquiry / criminal case is a provision for the benefit of the department and does not create any right in favour of a member of the Force. The provision is made with a view to ensure presence of member of the Force at the station where inquiry / criminal case is being conducted. However, that does not mean that filing of a criminal case against a member of the force creates a right in his favour to permanently remain posted at the same station for indefinite period. Therefore, Petitioner's reliance on guideline No. D(iii) is misplaced.

7. So far as guideline No.13 is concerned, the same merely prescribes maximum tenure of 10 years at a stretch and 15 years of broken spells. Again, this guideline does not create any enforceable right in favour of an employee to seek retention at a station for a particular tenure. The learned counsel for Petitioner has contended that Petitioner has not completed 15 years of service in broken spells in the 12th Battalion, Thakurli Mumbai. In our view, usage of the words 'broken spells' in the guideline would clearly indicate that a member of the Force can be moved from one station to another by breaking spells of his tenure. What guideline No.13 may envisage is the fact that a member of the Force cannot be continued in same Battalion / Unit for more than 15 years in broken spells. This would not mean that Petitioner has a right to continue at same station for 15 years as sought to be suggested.

8. Railway Protection Force, being armed force of the Union, is a disciplined Force. Its members are bound to carry out orders of deployment issued for better utilization of the Force. Petitioner has not made out any case of personal inconvenience, for which he could at best make a representation for retention for limited period. However transfer is not challenged on the ground of any specific personal difficulties. Petitioner has already joined the place of transfer in the year 2019. Therefore, this is not a fit case warranting interference by this Court.

9. Resultantly we do not find any merit in the petition. Writ Petition is dismissed with no order as to costs.

SANDEEP V. MARNE, J.

ACTING CHIEF JUSTICE