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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.03.2025

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THE HON'BLE Mr. JUSTICE **C.V.KARTHIKEYAN**

W.P.No.8240 of 2025
and W.M.P.No.9248 of 2025

M.Kanagasabai

.. Petitioner

Vs.

1. Director General,

Force Headquarters, Border Security Force,
Block No.10, CGO Complex, Lodhi Road,
New Delhi – 110003.

2. Inspector General,

Personnel Directorate,
Headquarters, Border Security Force,
Block No.10, CGO Complex, Lodhi Road,
New Delhi – 110003.

3. Inspector General, BSF

FTR HQ (SPL OPS) BSF ODISHA at Bangalore,
Post & PS: AFS Station Yelahanka,
Bangalore,
Karnataka – 560 064

4. Deputy Inspector General, BSF

SHQ BSF CHENNAI AND TAC SHQ BSF Malkangiri
Village - Keerapakkam,
PO – Nallambakkam, PS – Kayar,
Chennai – 600 127.

.. Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the Proceedings in the issue of Signal/Order U/C NO R/3425 dated 30.01.2025 issued by the 1st respondent transferring the petitioner at Sl. No 46 from SHQ MKG (Chennai / Malkangiri) to 155 BN BSF (Punjab) pertaining the petitioner with direction to join duty in Punjab, the Posting Out Order No. Estt./ SHQ Ch/P&T /2024/ 922 dated 14-02-2025 issued by 4th respondent to relieve the petitioner from SHQ BSF Chennai latest by 30-04-2025 and to quash both the same as arbitrary, unfair, unreasonable and in violation of Service Rules violation of Rule of Law thus impinging the fundamental right of under Article 14 of the Constitution of India and consequently direct the respondents to allow the petitioner to complete his tenure posting in FTR - Bangalore anywhere under the control of the 3rd respondent to be concurrent with his offer of Voluntary Retirement on completion of his six years tenure in FTR.

For Petitioner .. Mr.A.Irudayam

For R1 & R2 .. Mr.Venkatasamy Babu,
Senior Panel Counsel

ORDER



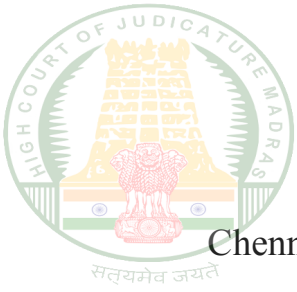
This Writ Petition has been filed in the nature of the Certiorarified

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Mandamus seeking records relating to proceedings dated 30.01.2025 issued by the 1st respondent by which proceedings, the petitioner had been transferred from SHQ MKG (Chennai / Malkangiri) with a direction to join duty at 155 BN BSF (Punjab) and order dated 14.02.2025 issued by the 4th respondent relieving the petitioner from Chennai and directing him to join on or before 30.04.2025 and to quash all the aforementioned proceedings.

2.The petitioner is working as Head Constable in BSF at Chennai. He had been appointed as constable on 17.08.1992 and thereafter, had been promoted as Head Constable and has been functioning as such.

3.In the affidavit filed in support of the writ petition, he had given the list of places where he had served right from the date of his initial appointment. An order directing him to transfer from Chennai to Punjab had been issued to him and questioning that particular order the writ petition has been filed. He had been, however, relieved from his present place of posting on 10.03.2025 and had been directed to join in Punjab on or before 30.04.2025. Among other reasons sought by the petitioner to be retained at



Chennai is the education of his child and also the condition of his ailing mother.

4.However, on the side of the respondents, it is contended that the petitioner has a right to be considered to be retained in a particular posting only for a period of three years and as on the date of issuance of order of transfer, the petitioner had been serving at Chennai for four years and eleven months. He had over stayed in the present posting. It had also been contended that the order is not a stand alone order focused only on the petitioner, but an order transferring as many as 318 personnel across the country. It had also been contended that the petitioner has been relieved from his present posting.

5.Heard both sides.

6.The learned counsel for the petitioner placed reliance on the rules relating to the Border Security Forced (Tenure of Posting and Deputation) Rules, 2000, a copy of which had been forwarded by the respondents. The learned counsel for the petitioner placed reliance on Rule 5 which provides



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for contingencies for posting out of parent battalion. It provides as to how a routine transfer could be made to what is normally called a static formation, which would indicate that the formation is permanent at one particular place. The said routine transfer to the static formation would be for three years. However, the learned counsel stated that this particular Rule 5 should be read in conjunction with Rule No.6 which provides the tenure for a battalion. For better clarity Rules 5 and 6 are extracted below:

“5.Contingencies for posting out of parent Battalion:-

Save as contained in rule 4, the competent authority may consider inter-battalion posting of the members of the Force on the following grounds:-

1).Routine transfer to static formation due to turn over of the members of the force on completion of field service. The posting to static formation shall be for a period of three years only and thereafter, the member of the Force shall revert to his parent Battalion:



WEB COPY *Provided that in the cases of the members of the Force who belong to ministerial cadre, their tenure with static formation shall be four years.*

2).On grounds of operational/training requirement, misconduct and discipline.

3).On medical ground as provided for in rule II.

6.Tenure:-The tenure of a Battalion shall be as under:-

1).Extreme hard area – Two years

2).Hard area – Three years

3).In a Frontier – Maximum six years

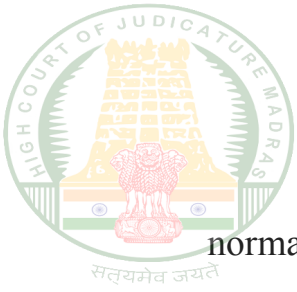
7.Rule 6 relating to a tenure for a battalion and provides that for a extreme hard area it would be two years and for hard area it would be three years and in a frontier it would be maximum six years.

8.The learned counsel stated that though the petitioner is posted at the Headquarters, Chennai, there is also yet another headquarters at Coimbatore with frontier at Orissa and the petitioner could very well be accommodated



in that place and therefore, stated that he could be accommodated for a total period of six years.

9. There is a fallacy in the argument advanced by the learned counsel for the petitioner. Rules 5 and 6 are mutually exclusive. Rule 5 relating to an individual who has to be posted out of the parent battalion and relates to routine transfers. Rule 6 relates to the tenure of a battalion as such. The battalion cannot be in a particular place for ever and ever. Therefore, Rule 6 comes to the assistance of a battalion which is posted in an extreme hard area or in a hard area and limits the posting of tenure of a battalion for two years in an extreme hard area, to thereafter, provides for another battalion to be posted in that particular place. For a hard area, the tenure would be three years and in a frontier a maximum of six years. Thereafter, they would again be rotated to either extreme hard area or to the hard area. Rule 6 refers to a unit or a battalion as such. This is evident from the definition clause, which is given in Rule 2, where 'duty battalion' had been defined as a battalion deployed on active duty including Artillery Regiments. This would be a battalion in actual war front on the borders. Extreme hard area, hard area and



normal area are the areas categorized as such by the Border Security Force Headquarters.

10. The Border Security Force functions not only in a static area like Chennai which could be termed as static area or like Cuddalore could also be termed as static area where there is not much activity taking place. There could also be hard and extreme hard areas on the borders of the country and when a battalion as such is moved to a hard area or to an extreme hard area, protection is granted that the tenure of the battalion is limited to two years or three years. If it is to be a frontier area it is for a much longer period for six years. But, individuals could always be transferred. There could be transfer out of their parent battalion and later they will be re-transferred to their parent battalion.

11. The Courts should rarely interfere with orders of transfer issued by uniformed services. The order of transfer could be in one line, but there would be so many other factors taken into consideration to transfer an individual from one place to another place. As stated, the petitioner had been functioning in the present place of posting for over four years and it is now



time for him to move around. It is time for him to be posted in a different location and the respondents had taken a decision that he should be relocated to Punjab, which is within this country.

12.The petitioner having joined the Border Security Force should be prepared and I am confident that he is prepared to discharge duties at any part of the country. He had been discharging his duty, but unfortunately owing to various circumstances he had filed the writ petition. The writ petition is misconceived and I would only fervently hope that the respondents do not hold the filing of the writ petition against the petitioner. The petitioner had only tried his chances by filing this writ petition. It would only be appropriate that he moves over to Punjab and I am confident that the BSF personnel at Chennai would take care of his son and of his ailing mother.

13.The fraternity among the BSF personnel is extremely strong and the petitioner can be very well assured that his family would not be left high and dry by his colleagues at Chennai or in Cuddalore. I am not inclined to interfere with the order of the transfer. I would only wish the petitioner well in his service.



14.The Writ Petition stands dismissed. No costs. Consequently,

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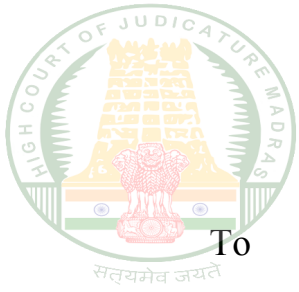
connected Writ Miscellaneous Petition is closed.

24.03.2025

Index: Yes/No

Internet: Yes/No

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To

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C.V.KARTHIKEYAN,J.

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