



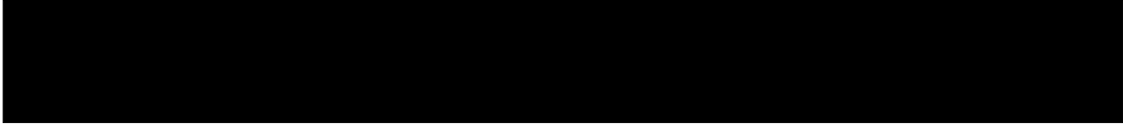
IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT

2023:KER:55061

THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V
THURSDAY, THE 14TH DAY OF SEPTEMBER 2023 / 23TH BHADRA, 1945
WP(C) NO. 33583 OF 2022

PETITIONER:

EX-SUB INSPECTOR/EXE. BIJU K.A.



BY ADV G.SURESH KUMAR (EKM)

RESPONDENTS:

- 1 ADDITIONAL DIRECTOR GENERAL CISF,
AIRPORT SECTOR, CISF HEAD QUARTERS, MAHOPALPUR,
NEW DELHI - 110001.
- 2 ASSISTANT INSPECTOR GENERAL/RECRUITMENT,
CENTRAL INDUSTRIAL SECURITY FORCE,
BLOCK NO. 13 LODHI ROAD, NEW DELHI - 110 003.
- 3 THE DEPUTY INSPECTOR GENERAL /DIG E AND NE-APS, KOLKATA,
PLOT NO. 553, NORTH KOLKATA TOWNSHIP KASBA,
KOLKATA, PIN - 700 107.
- 4 THE ASSISTANT INSPECTOR GENERAL,
CISF APS HQRS,, MAHIPALPUR, NEW DELHI- 110 037.
- 5 THE INSPECTOR GENERAL, CISF APS HQRS,
MAHIPALPUR, NEW DELHI- 110 037.
- 6 THE DEPUTY COMMANDANT /CASO,
CENTRAL INDUSTRIAL SECURITY FORCE RANCHI AIRPORT,
JHARKHAND-834002.
- 7 THE DIRECTOR GENERAL CISF,
BLOCK NO.13, CGO COMPLEX, LODHI ROAD, NEW DELHI -
110003.

*ADDL R8 STATE OF KERALA
REPRESENTED BY THE SECRETARY, MINISTRY OF HEALTH AND
FAMILY WELFARE DEPARTMENT, GOVERNMENT OF KERALA,
TRIVANDRUM.

*ADDL R8 IS IMPEADED AS PER ORDER DATED 15.11.2022 IN
I.A.2/2022 IN WP(C)33583/2022.



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BY ADVS.

SRI.MANU S., DSG OF INDIA

SRI.N.S.DAYA SINDHU SHREE HARI

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
14.09.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



JUDGMENT

The petitioner asserts that he was enlisted in the CISF as a Sub Inspector on 10.2.2018, following approximately 20 years of service in the Indian Air Force. Despite his request for a posting in his home zone, the petitioner's application was overlooked, prompting him to tender a resignation. However, he later rescinded his resignation, to which his request was accepted. Pursuant to Ext.P13 order by the Deputy Inspector General/DIG AP - NZ, he was instructed to report to the CISF unit ASG Ranchi by 29.1.2022. On receipt of the said communication, the petitioner, through Ext.P10 letter, indicated that he was under home quarantine due to his parents testing positive for COVID-19, substantiating this claim with their lab reports. He further emphasized his parents' severe health conditions and expressed his inability to report for duty in Ranchi by the aforementioned date. He requested that he be granted a temporary posting at ASG Cochin so that he can strive to report on 29.1.2022 as ordered. This plea was declined as per Ext.P17. Following this, the petitioner made another appeal, which was subsequently denied by Ext.P18. The petitioner asserts that the orders refusing his request to defer joining at Ranchi are clearly passed due to non-application of mind as the petitioner could not have violated the guidelines issued by the Ministry of Health and Family Welfare, Government of India, which mandate a 14-day home quarantine after exposure to a confirmed case. Given these guidelines and considering the considerable



distance of over 2000 km between his residence in Kochi and Ranchi, he asserts that he could not have reported to Ranchi on 29.1.2022. It is in the light of the above assertions that this writ petition is filed, seeking to quash Exts.P17 and P18 and to further direct the 7th respondent to reevaluate the petitioner's request for a transfer to his home zone.

2. The respondents 1 to 7 have submitted a counter affidavit. In response to the claims presented by the petitioner, the respondents contend that the petitioner's application to rescind his resignation was approved, and he was directed to recommence duty on 29.1.2022. Concerning a posting in Kerala-based units, the petitioner was advised that, after resuming his position at ASG Ranchi, he could separately submit a written request for assignments closer to his hometown, which would be evaluated based on the current posting policy. Instead of adhering to these guidelines, the petitioner, on 22.1.2022, submitted another application emphasizing his need to be stationed at ASG Cochin due to the medical treatment requirements of his parents, who had tested positive for COVID-19. The respondents highlighted that due to the petitioner's non-compliance in rejoining ASG Ranchi, his plea for an extended joining period was denied.

3. An additional statement has been filed. It is stated that there are no records to show that the petitioner had been afflicted with COVID-19 or that he was symptomatic during the said period. It is stated that the petitioner had not intimated that he was under strict home quarantine nor



that he was unable to join duty for the aforesaid reason. It is further stated that as the petitioner had stated in his letter that he is ready to join ASG Cochin or any other nearer units within the stipulated period, his contention that he could not have joined ASG Ranchi as he was in the home quarantine cannot be accepted.

4. I have considered the submissions advanced and have gone through the records which are made available before this Court.

5. I find that Ext.P22 is the guidelines issued by the Government of India, Ministry of Health and Family Welfare on 5.1.2022. In the said guideline, it is clearly mentioned that in so far as the duration of home quarantine is concerned, it would be a period of 14 days from contact with a confirmed case. In the case on hand, I find from Exts.P11 and P12, which are lab reports issued by Hygea-Med Laboratories, that the father of the petitioner, Mr.K.V Antony, who was aged about 77 years, and his mother, Mrs.Mary Antony, who was aged 72 years had both tested Covid Positive. I find from the Ext.P10 application that the petitioner had submitted a request on 22.1.2022 that he is in home quarantine as his mother and father had tested COVID-19 positive. He had also made mention of the details of the certificates issued by the medical laboratories. However, in Exts.P15, P17, and P18 orders, the fact that he was expected to keep himself in quarantine as per the guidelines issued by the Government for a period of 14 days was not appreciated while rejecting his request. It appears that the respondents



proceeded on the basis that the petitioner was trying to stay in Cochin instead of reporting to ASG Ranchi by 29.1.2022. As his parents had tested positive, the petitioner was bound to undergo quarantine as per the guidelines issued by the Central and State Governments. If violating the guidelines, the petitioner had reached Ranchi and had joined his engagement, the petitioner may have been instrumental in spreading the pandemic. Thus, there is a clear non-application of mind by the respondents while considering the request made by the petitioner. Only in the additional counter filed by the respondents, they have taken a contention that the petitioner has no case that he was symptomatic. The contention of the respondents appears to be that as per the guidelines, the patient who is under home isolation could discharge and end isolation after at least 7 days from testing positive. I am of the view that the aforesaid condition in the guideline is only for persons who have tested positive for COVID and not for a person like the petitioner herein who had come into contact with persons who had tested positive. None of these aspects have been adverted to by the respondents.

6. The learned Central Government Counsel had pointed out that the respondents were acting strictly according to the norms, and an individual like the petitioner who was ordered to rejoin after withdrawal of his resignation could have been granted only 90 days. However, the fact remains that the petitioner faced an unusual situation wherein his parents had tested



positive, and for unusual situations such as in the case of the petitioner, exceptions will have to be made. In that view of the matter, I am of the view that the petitioner has made out a case for interference.

Resultantly, this writ petition will stand partly allowed. Exts.P17 and P18 orders by which the petitioner was refused to rejoin the service after withdrawal of the resignation will stand quashed. Respondents are directed to permit the petitioner to rejoin duty if he appears at the ASG Ranchi within a period of ten days. Consequential orders shall be passed by the respondents in tune with the directions and observations above. It would be open to the petitioner to seek transfer to his home station after complying with the directions above. If any such request is made, the same shall be considered in accordance with law and the extant Rules and Regulations.

Sd/-

**RAJA VIJAYARAGHAVAN V
JUDGE**

Sru

**APPENDIX OF WP(C) 33583/2022**

PETITIONER'S EXHIBITS

- Exhibit P1 TRUE COPY OF RELEVANT PAGES OF SERVICE BOOK OF THE PETITIONER WHERE ENTRIES ARE MADE WITH REGARD TO HIS SERVICE IN THE INDIAN AIR FORCE.
- Exhibit P2 TRUE COPY OF THE APPLICATION SEEKING TRANSFER TO HOME ZONE SUBMITTED BY PETITIONER IN MAY 2021.
- Exhibit P3 TRUE COPY OF APPLICATION FOR RESIGNATION DATED 13-09-2021 ADDRESSED TO 1ST RESPONDENT.
- Exhibit P4 True copy of letter No. (3052) dated 22-09-2021 issued by 6th Respondent returning the Exhibit P-3 application submitted by Petitioner stating it to be conditional.
- Exhibit P5 TRUE COPY OF LETTER NO. (1093 DATED 28-10-2021 ISSUED BY 6TH RESPONDENT.
- Exhibit P6 TRUE COPY OF LETTER NO. (3456) DATED 28-10-2021 ISSUED BY THE 6TH RESPONDENT STATING THAT THE RESIGNATION APPLICATION HAS BEEN PROVISIONALLY ACCEPTED AND TO REPAY RS. 2,09,136/-.
- Exhibit P7 TRUE COPY OF CIRCULAR NO. 22/2017 DATED 25-09-2017 ISSUED BY THE 7TH RESPONDENT.
- Exhibit P8 TRUE COPY OF RECEIPT NO.092 DATED 29-10-2021 FOR RS. 5,51,709/-.
- Exhibit P9 TRUE COPY OF RECEIPT NO. 093 DATED 29-10-2021 FOR RS. 2,09,136/-.
- Exhibit P10 TRUE COPY OF APPLICATION FOR RE-JOINING SUBMITTED BY PETITIONER AS A REMINDER DATED 22-01-2022 ADDRESSED TO 5TH RESPONDENT.



- Exhibit P11 TRUE COPY OF COVID TEST RESULTS OF HIS FATHER OF THE PETITIONER DATED 19-012022.
- Exhibit P12 TRUE COPY OF COVID TEST RESULTS OF HIS MOTHER OF THE PETITIONER DATED 19.01.2022.
- Exhibit P13 TRUE COPY OF ORDER NO. EAND NE)/RESIG/ 16015/CISF/AP(E ADM3/2020-543-(E) DATED 21-1-2022 ISSUED BY THE 3RD RESPONDENT AS REPLY TO HIS APPLICATION DATED 20-12-2021.
- Exhibit P14 TRUE COPY OF LETTER DATED 2701-2022 AND REQUESTING TO PERMIT PETITIONER TO TEMPORARILY JOIN ASG COCHIN SUBMITTED BEFORE 7TH RESPONDENT.
- Exhibit P15 TRUE COPY OF LETTER NO. (148) DATED 27-01-2022 ISSUED BY 4TH RESPONDENT AS REPLY TO EXHIBIT P-10 REJECTING HIS PLEA IN SITUATION OF BEEN IN HOME QUARANTINE.
- Exhibit P16 TRUE COPY OF LETTER NO.(407) DATED 10-02-2022 ISSUED BY THE 2ND RESPONDENT BY WHICH THE EXHIBIT P-14 WAS FORWARDED TO THE 4TH RESPONDENT.
- Exhibit P17 TRUE COPY OF LETTER NO. (1545) DATED 16-03-2022 ISSUED BY 3RD RESPONDENT AS REPLY TO APPLICATION DATED 27-012022 REJECTING REQUEST OF PETITIONER TO JOIN ASG COCHIN OR NEARBY UNIT.
- Exhibit P18 TRUE COPY OF LETTER NO. (1540) DATED 06-07-2022, ISSUED BY THE 2ND RESPONDENT BY WHICH THE REQUEST TO RE-JOIN IN SERVICE WAS REJECTED.
- Exhibit P19 TRUE COPY OF MOVEMENT ORDER (RENEWAL) NO. 684 DATED 29-04-2020.
- Exhibit P20 TRUE COPY OFMOVEMENT ORDER (RENEWAL) NO.1546 DATED 29-04-2020.
- Exhibit P21 TRUE COPY OF OFFICE MEMORANDUM NO. 28035/2/2014-ESTT(A) DATED 10-06-2019 ISSUED



BY THE DEPARTMENT OF PERSONNEL & TRAINING,
MINISTRY OF PERSONNEL, GOVERNMENT OF INDIA.

Exhibit P22 TRUE COPY OF THE ORDER ISSUED BY GOVERNMENT
OF KERALA NO.44/31/F2/H&FWD DATED 6TH JANUARY
2022.

RESPONDENTS EXHIBITS

- Exhibit R6(a) True copy of letter No.
E-38014(21)/1/2017/ADM/Disposal of
E-Grie/9200 dated 21.09.2021.
- Exhibit R6(b) A true copy of the acknowledgement by the
petitioner dated 24.09.21.
- Exhibit R6(c) A true copy of the application submitted by
the Petitioner dated 25-09-2021.
- Exhibit R6(d) A true copy of the DIG AP(e and NE) HQrs,
Kolkata Service Order Pt.I No. 41/2021 dated
01.12.2021.
- Exhibit R6(e) True copy of the application submitted by the
petitioner dated 20.12.2021.
- Exhibit R6(f) True copy of the DIG, CISF, AP(E and NE)
HQrs, Kolkata letter No. E-16015/CISF/AP(E
and NE)/RESIG/Adm-3/2020/543-(E) dated
21.01.2022.
- Exhibit R6(g) True copy of application submitted by the
petitioner dated 22.01.2022 addressed to
IG/APS,CISF APS HQrs, New Delhi.
- Exhibit R6(h) True copy of letter No.
E-15016/4/Resignation/APS/EST-i/2022/148
dated 27.01.2022.
- Exhibit R6(i) True copy of application dated June 2021
submitted by the petitioner.
- Exhibit R6(j) True copy of DIG, AP(E and NE) HQrs, Kolkatta
letter No. E-38014/AP/(E and



- NE)/Posting/Adm.1/2021-4410 dated 30.06.2021.
- Exhibit R6(k) True copy of the application dated 13.09.2021 of the petitioner.
- Exhibit R6(l) True copy of CASO/Dy.Commandant, CISF Unit, ASG Ranchi letter No. E-31014/BMAP/Adm/Resignation/2021/3052 dated 22.09.2021.
- Exhibit R6(m) True copy of DIG, AP(E and NE) HQrs, Kolkata letter No. E-16015/CISF/AP(E and NE)/Resignation/Adm.3/2020/684 dated 11.10.2021.
- Exhibit R6(n) True copy of DC, ASG,Ranch letter No. E-31014/BMAP/R/Adm/Resignation/2021/3456 dated 28.10.2021.
- Exhibit R6(o) True copy of letter No. F-20018/CISF/BMAP/Account/Misc/2021/1093 dated 28.10.2021.
- Exhibit R6(p) True copy of the application dated 27.01.2022 of the petitioner.
- Exhibit R6(q) True copy of CISF HQrs letter No. (407)dated 10.02.2022.
- Exhibit R6(r) True copy of ADG/APS letter No. (448) dated 24.02.2022.
- Exhibit R6(s) True copy of AIG/Rectt., FHQ letter No. 560) dated 28.02.2022.
- Exhibit R6(t) True copy of ADG/APS letter No. 493) dated 03.03.2022.
- Exhibit R6(u) True copy of DIG, AP(E and NE) HQrs, Kolkata letter No. (1545) dated 16.03.2022.
- Exhibit R6(v) True copy of the DOPT OM No. 28035/2/2014-Estt(a) dated 10.06.2019.
- Annexure R6(a) A true copy of the Ministry of Health and



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Family Welfare, Govt. of India letter dated
05.01.2022.