

Central Administrative Tribunal Principal Bench, New Delhi

O.A. No.1083/2020

This the 9th day of March, 2021

(Through Video Conferencing)

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Mohd. Jamshed, Member (A)

Dr.Chakkirala Sambasiva Rao, IPS (HR:1995),
S/o late Sri Chakkirala Pitchaiah,
Inspector General of Police, State Crime Branch,
Now, Additional Director General of Police,
State Crime Branch, 1st Floor, Women Police Station,
Sector-51, Gurugram, Haryana.

...Applicant

(By Advocates:Mr.Saket Sikri and Mr.Vikalp Mudgal, Counsel for the Applicant)

VERSUS

1. Union of India, Ministry of Home Affairs
(Through the Secretary), North Block,
Central Secretariat, New Delhi,
Delhi-110 001.
2. State of Andhra Pradesh, (Through its
Secretary), 1st Block, 1st Floor,
Interim Government Complex, A.P.Secretariat
Office, Velagapudi, Andhra Pradesh-522 237.
3. State of Haryana, (Through its Secretary)
Haryana Civil Secretariat, 8th Floor,
Sector 1, Chandigarh-160 001.

...Respondents

(By Advocate:Mr.Gyanendra Singh, Counsel for the Respondent No.1)



ORDER (ORAL)**Justice L. Narasimha Reddy, Chairman:**

The applicant is an IPS officer of 1995 batch of Haryana cadre. He was promoted as Additional Director General of Police (ADGP), on 01.05.2020. He is a native of State of Andhra Pradesh. He served in various capacities including Assistant Superintendent of Police Rohtak, Hisar, ADC to the Governor, Haryana, Superintendent of Police of various districts, ADGP, United Nations Civpol Officer in Kosovo, on deputation, and an officer of CRPF at Hyderabad in 2009 and 2014.

2. It is stated that the health of the mother of the applicant deteriorated in 2017 and that his brother's wife was also diagnosed as Stage-IV Metastatic Lung Cancer. Narrating the difficulties being faced by him to take care of his family, the applicant made a request to the State of Andhra Pradesh and State of Haryana, as well as Union of India, with a request to send him on deputation to State of Haryana. It is stated that the respondents 2 and 3 have conveyed their no objection, but the first respondent has rejected the request of the applicant through letter dated 10.12.2019. This OA is filed challenging the letter dated 10.12.2019.

3. The applicant contends that no hardship would have been caused to any of the respondents, in case his request is acceded to.



He contends that the relevant rules and office memorandums provide for deputation of the officers for a limited period and that the impugned order runs contrary to that. It is also stated that when the rules permit even permanent change of cadre depending on the circumstances, there was no basis to reject his request for deputation for a limited period.

4. The first respondent filed a counter affidavit. The particulars of service furnished by the applicant are not denied. It is, however, stated that the deputation of an All India Service Officer is permitted only after he completes 9 years of service and before he reaches the level 14 of Pay matrix in the home cadre, and in the instant case, the applicant has reached the level 14 of the Pay matrix in his home cadre. It is also stated that wherever the relaxation from the guidelines is needed, the matter has to be placed before a committee comprising of Secretary, DoP&T, Establishment Officer and Additional Secretary, and Additional Secretary (S&V) as members, and when the case of the applicant was placed before the committee for relaxation, the committee did not accede to his request.

5. We heard Mr.Saket Sikri and Mr.Vikalp Mudgal, learned counsel for the Applicant and Mr.Gyanendra Singh, learned counsel for the Respondent No.1.



6. The applicant has a smooth and meritorious career, ever since he joined service. He served the home cadre in different capacities. Apart from that, he was on deputation for one year in the United Nations Mission in Kosovo (UNMIK) and in the CRPF for about 5 years. The request made by him for deputation to the State of Andhra Pradesh for a limited period was acceded to by the States of Haryana and Andhra Pradesh. Since the concurrence of the Union Government is necessary, the file was processed.

7. It is no doubt true that the guidelines framed by the Government in this behalf permit deputation only at a particular stage of the service of the All India Service officer viz., after completion of 9 years and before he reaches the level-14 of the Pay matrix. However, the power to relax is reserved to the Government. A committee is constituted for this purpose. Since the applicant crossed the upper limit in the context of deputation, relaxation became necessary. The power in this behalf is conferred only with the first respondent. In the impugned order dated 10.12.2019, simply reads as under:

"No.I-21021/13/2019-IPS-IV(Pt)

*Government of India
Ministry of Home Affairs,
Police-IV Division*

*North Block, New Delhi
Dated the 10th December, 2019*

*To
The Chief Secretary,
Government of Haryana
Chandigarh.*



Sub:Inter Cadre deputation in respect of Shri C.S.Rao, IP (HR:1995) from Haryana to Andhra Pradesh – Reg.

I am directed to refer to Government of Haryana's letter No.6/52/2019-3HG-I, dated 30.10.2019, wherein this Ministry had been requested for inter cadre deputation of Shri C.S.Rao, IPS (IPS:1995) from Haryana to Andhra Pradesh on the ground of personal hardship.

- 2. The matter has been examined in this Ministry and request for inter cadre deputation in respect of aforesaid officer cannot be acceded to.*
- 3. This issues with the approval of Competent Authority.*

*Sd/-
(Ajay Kumar Sah)
Section Officer
Tel.No.23094038.*

Copy to:Shri Chakkirala Sambasiva Rao, IPS (HR:1995), IGP, State IGP, State Crime Branch, 1st Floor, Women Police Station, Sector 51, Gurugram, Haryana."

There is no reference to or mention of the matter having been dealt with the committee. Though it cannot be said that the order suffers from any infirmity or illegality, the exercise must indicate that the committee applied its mind to the facts pleaded by the applicant.

- 8. The various judgments of the Hon'ble Supreme court pertaining to cadre transfer or deputation, indicate that the emphasis should be to accommodate the request of the concerned officer, as long as concerned States do not have any objection. In certain cases, when States of home cadre objected to, for permanent transfer even where the rules provide for it, specific directions were issued. The applicant no doubt cannot claim relaxation as of right. However, the record must indicate that the facts pleaded by the applicant are taken note of. It would have been better, had the impugned order contained some reasons.*



9. An important aspect is that an application was made in July and August 2019. Nearly, one and half years have elapsed. The factors pleaded by the applicant are mostly domestic in nature. If the situation still warrants and if there is any impending necessity for his being present in the State of Andhra Pradesh, it shall be open to the applicant to make a fresh representation to the first respondent. Since the respondents 2 and 3 have already given their no objection, it would not be necessary to make a representation to them, afresh.

10. We, therefore, dispose of this OA declining to interfere with the impugned order, but leaving it open to the applicant to make a fresh representation to the first respondent narrating the circumstances that exist as of now, seeking relaxation from the condition relating to deputation. The first respondent in turn shall pass appropriate reasoned order within a period of two months from the date of receipt of a copy the fresh representation without feeling the need to call for any comments from the respondents 2 and 3. There shall be no order as to costs.

(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

Dsn/akshaya/