

(2021) 06 GAU CK 0112

In the Gauhati High Court

Case No : Writ Petition (Civil) No. 3099 Of 2021

CT/GD (M) Alaka Basumatary

APPELLANT

Vs

Union Of India And 5 Ors

RESPONDENT

Date of Decision : 22-06-2021

Acts Referred:

Central Civil Services (Leave) Rules, 1972 — Rule 43C
Constitution Of India, 1950 — Article 226

Citation : (2021) 06 GAU CK 0112

Hon'ble Judges : Kalyan Rai Surana, J

Bench : Single Bench

Advocate : H Bezbarua

Judgement

1. Heard Mr. R. Mazumdar, learned counsel for the petitioner as well as Mr. A.K. Dutta, learned CGC appearing for the respondent.

2. By filing this writ petition under Article 226 of the Constitution of India, the petitioner who is serving as Constable/ General Duty (Mahila) is seeking

quashing of the transfer order dated 11.04.2019 and communication dated 10.06.2021 by which the petitioner was proposed to be relieved on

30.06.2021 and for directing the respondent no.2 to dispose of the representation dated 24.05.2021 (Annexure-7) and for directing the respondents to

grant Child Care Leave as per Rule 43C of the Central Civil Services (Leave) Rules, 1972.

3. The learned counsel for the petitioner submits that as per the CCS (Leave) Rules, 1972, the petitioner is entitled to leave for a maximum period of

2(two) years i.e. 730 days during the entire service career for taking care of upto 2 children.

4. It is submitted that the petitioner has availed CCL for 180 days from 13.02.2020 to 10.08.2020 and another 180 days from 02.11.2020 to

29.06.2021. Apart from CCL, the petitioner has availed other leave to which she was entitled to and it is projected that the leave period would expire

on 29.06.2021.

5. In para-16 of the writ petition, it is projected that when the petitioner approached the authorities to grant remaining days of CCL, the authorities

expressed their inability to grant remaining days of CCL and accordingly, on 10.06.2021, the application of the petitioner for suspension of the transfer

order to 232 (M) dated 25.01.2021 was forwarded to the Special Director General, North East Zone, Guwahati. However, in the said communication,

there is a footnote that the petitioner shall be released on 30.06.2021.

6. The learned counsel for the petitioner further submits that as the transfer order dated 11.04.2019 was by the Deputy Inspector General

(Establishment), according to him the appropriate authority to dispose of the representation would be the Director General (CRPF). It is clarified that

the Court has only recorded the submission made by the learned counsel for the petitioner without making any comment thereon as to who would be

the competent authority to dispose of such representation.

7. Opposing this writ petition and the interim prayer made by the petitioner, the learned CGC has submitted that the petitioner has already availed 360

days of CCL and she has also availed 60 days EL and the leave allowable to the petitioner would end on 29.06.2021. Accordingly, it is submitted that

as on date, contrary to the standing order no.7/2015, as against her tenure of 3 years to a place of posting for Mahila Constable, the petitioner has

been in the same place of posting for 5 years 9 months at a stretch. Accordingly, it is submitted that any further retaining of the petitioner at the same

station would be against the standing instructions in force in respect of the CRPF Mahila Battalion Personnel.

8. Let a notice returnable on 14.07.2021 be issued. As the learned CGC accepts notice on behalf of all the respondents, requisite additional copies of

the writ petition may be furnished to him within 2(two) days.

9. The Court is of the considered opinion that as the competent authority is yet to dispose of the representation of the petitioner, the respondent

authorities shall refrain from releasing the petitioner on 30.06.2021 as indicated

in the forwarding letter dated 10.06.2021 (Annexure-9), till the next date of listing.

10. In view of the Covid-19 pandemic situation prevailing, the petitioner is granted liberty to produce a downloaded copy of this order for furnishing it to the learned CGC as well as to the respondent no.5 and the said authority shall be at liberty to verify the correctness of the order from the website of the Court and act accordingly.

11. List the matter on 14.07.2021.