

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE ATUL SREEDHARAN

&

HON'BLE SHRI JUSTICE DINESH KUMAR PALIWAL

ON THE 25th OF JUNE, 2025

WRIT PETITION No. 26284 of 2021

MOHANLAL MEENA (IAS)

Versus

UNION OF INDIA AND OTHERS

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Appearance:

Shri Brian D'Silva - Senior Advocate with Shri Abhishek Dilraj and
Shri Sarabvir Singh Oberoi - Advocates for the petitioner.

Ms. Mrinal Elker and Shri Rajvardhan Datt Padarha - Govt. Advocates
for the State.

Shri Shrikrishna Sharma - Assistant Solicitor General for respondent
No.1/Union of India.

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ORDER

Per. Justice Atul Sreedharan

The present petition has been filed by the petitioner, who is aggrieved by the orders dated 22.06.2021 (Annexure P/44), 20.07.2020 (Annexure P/39) and 30.07.2020 (Annexure P/40). The main order that has been challenged in this case arises from the order dated 22.06.2021, which is passed in O.A. No.964/2021 by which the petition filed by the petitioner herein before the Hon'ble Central Administrative Tribunal was dismissed in which the orders dated 20.07.2020 and 30.07.2020 were challenged, which

was originally passed by the respondent No.1.

2. Brief facts of the case are as follows. The petitioner Mr. Mohanlal Meena is an IAS Officer of the Manipur/Tripura Cadre, 2001 Batch. His home State is Rajasthan. His actions in Manipur are said to have hurt the business interest of two MLAs, who allegedly assaulted him on two dates i.e., 28.01.2006 and 30.01.2006 on account of which, he preferred a representation dated 15.02.2006 to the respondent No.1 for an inter-cadre transfer from the then Manipur/Tripura Cadre, to any other State (except Nagaland on grounds of threat to his life and to his family).

3. The Ministry of Home Affairs sent a report dated 27.07.2006, whereby the threat perception to the life of the petitioner was assessed and the matter was examined by the Ministry of Home Affairs in consultation with the Central Security Agencies, the two in their report had stated that the petitioner, who was then on leave and staying at Jaipur (Rajasthan), had taken up the cudgels against the supporters of the MLA/INC, and in view of their reported affinity to the MLAs and with the underground groups operating in Manipur, threat to the petitioner and the family in Manipur cannot be ruled out. In the report dated 01.08.2006 received from the Government of Manipur, it was stated that there was a threat to the petitioner arising from his actions as Deputy Commissioner, Ukhrul, on account of a dispute with two MLAs. However, the threat that existed to the petitioner at that point of time did not appear to exist anymore. In view of the above that a general security threat will prevail in insurgency areas, but the same cannot be a ground for inter-cadre transfer of Officers and if such non-specific

threat was deemed as sufficient grounds, many Officers would start demanding cadre change. This was a stand of the respondent.

4. Indian Administrative Services (Cadre) Rules, 1954 (hereinafter referred to as Rules) govern inter-cadre transfer. The Ld. Senior Counsel appearing for the petitioner has drawn the attention of this Court to the Office Memorandum dated 08.11.2004, which is a policy relating to change a cadre of All Indian Service Officers. The said Office Memorandum refers to the rule 5(2) of the Rules and observe that the said rules in recent practice were only invoked in cases of marriage between All India Service Officers. However, in Paragraph 2 of the Office Memorandum, Clause-6 permitted a consideration of inter-cadre transfer on account of extreme hardship such as threat to life of the Officer or his immediate family, severe health problems to the Officer or his immediate family, due to the climate or environment of the State to which he is allocated. Clause-7 of Paragraph 2 of the Office Memorandum provides that in case of request on grounds of health, threat of or health, the Central Government shall have the genuineness of the request assessed by an Independent Central Agency or group of at least two independent experts. Clause-8 of Paragraph 2 of the said Office Memorandum provided that where a request for cadre change on the grounds of health or threat to life is found genuine, the Central Government may initially send the Officer on a three-year deputation to a State of his choice. The situation may then be reassessed after a period of three years and if the situation so warrants, the Central Government may permanently transfer the Officer to that State. Much emphasis has been placed by the learned Senior

Counsel appearing for the petitioner on Clause-8 of Paragraph 2 of the Office Memorandum. The same does not have the force of law or the sanctity of the Rules of 1954, but nonetheless, the same is a guideline to the Central Government to be considered while assessing the request for a cadre change on the basis of threat to life.

5. Coming to the factual aspects of the case, after the alleged assault on the petitioner on 28.01.2006 and 30.01.2006, the case of the petitioner is that the MLA pressurized him to withdraw the FIR and that he (petitioner) is under a perpetual threat. It is also necessary to mention here, that on 15.02.2006, after making the application for change of cadre, the petitioner left Manipur-Tripura and went away to his home state of Rajasthan, where he remained from 2006 till 2010, on leave. In the year 2010 (Annexure P/14), there was a notification issued by the respondent dated 07.06.2010, by which the petitioner was sent to Madhya Pradesh for a period of 3 years on an inter-cadre deputation. It is necessary to mention here that Clause 5(ii)VII, provides an avenue to seek an inter-cadre transfer and Clause 5(ii) (VIII) provides for an inter-cadre deputation pending assessment by the Central Government, on whether the petitioner's cadre must be changed from Manipur-Tripura to Madhya Pradesh. However, the order for such deputation can only be passed under Rule 6(1).

6. The petitioner served in Madhya Pradesh from 2010, and his deputation expired in 2013. The first contention of the learned counsel for the petitioner is that immediately upon the deputation coming to an end, it was incumbent upon the Central Government to decide on his inter-cadre

transfer. In the opinion of this Court, there is no provision in the Rules of 1954, mandating such an action by the Central Government, upon the expiry of three years of inter-cadre deputation.

7. The petitioner, from 2013 onwards, has preferred multiple O.As before the Central Administrative Tribunal and on each occasion, the petitioner got the benefit of the orders of the Tribunal, by virtue of which he continued to serve in Madhya Pradesh. The first case is O.A. No.800 of 2013, by which the Tribunal directed the Union of India to examine the request of the petitioner for his inter-cadre transfer from the State of Manipur-Tripura to the State of Madhya Pradesh (perhaps, the intention of the Hon'ble CAT was to consider the case of the petitioner for a change of cadre) and that till such a decision is taken, the petitioner shall be permitted to continue his deputation in Madhya Pradesh. The second O.A. No.200/00401 of 2015 was filed challenging the action of the respondent in not considering the case of the petitioner for transfer of cadre of Manipur-Tripura to Madhya Pradesh on the basis of the report submitted by the Intelligence Bureau in the month of May, 2014 and instead calling for a fresh report in the month of April, 2015, and it was also prayed in the petition to direct the respondents to consider the application of the petitioner for transfer of cadre submitted in terms of rule 5(2) of Rules of 1954. However, the Union of India filed a reply before the Hon'ble CAT and took the stand that the IB report had already been received by the respondent on 18.05.2015 and the same was to be placed before the Committee constituted in the DoPT to consider the inter-cadre transfer of the petitioner. On the basis of that

submission, the aforementioned O.A. was disposed of without examining the merits of the petitioner's case, with a direction to the Committee constituted in the DoPT, to consider the inter-cadre transfer of the petitioner within a period of 02 months from the date of communication of the order.

8. Learned counsel for the petitioner further submits that the second O.A. was disposed of vide order dated 18.06.2015 with the aforementioned directions whereas, unknown to the petitioner and the Hon'ble CAT, the case of the petitioner was considered and rejected vide order dated 11.06.2015. The respondent No.1/Union of India had rejected the proposal of the petitioner for a change in cadre from Manipur-Tripura to Madhya Pradesh vide order dated 11.06.2015 (Annexure P/26). Order dated 11.06.2015 was challenged by the petitioner (Annexure P/27). However, a third O.A. No.200/00211 of 2019 was preferred by the petitioner, wherein he challenged his repatriation from Madhya Pradesh to Manipur-Tripura without considering his case for an inter-cadre change. That petition was disposed of vide order dated 29.10.2019 by directing the Union of India to reconsider the case of the petitioner for an inter-cadre transfer out of Manipur-Tripura State afresh, and that till such time the decision is taken by the respondent No.1/Union of India, the petitioner would continue his deputation in Madhya Pradesh. It further directed that the period from 10.06.2015 to 06.02.2019 shall not be treated as unauthorized deputation. The said order of the CAT was assailed before this Court by filing W.P. No.3569/2020, which was disposed of vide order dated 17.02.2020 by upholding the order of the CAT was innocuous and only directed the

respondent No.1/Union of India to consider the case of the petitioner. Thereafter, the request of the petitioner was considered and the main impugned order dated 20.07.2020 (Annexure P/39) was passed. Pursuant to said order of the CAT, the respondent passed the order dated 20.07.2020 whereby an elaborate order was passed considering the case of the petitioner and thereafter, rejecting his request for inter-cadre shift.

9. The said order records the basic facts pertinent to the petitioner's case and mentions that the approved tenure of the inter-cadre deputation of the petitioner expired on 30.06.2013, but that he continued on the deputation without the approval of the Competent Authority on the basis of the order passed by the Hon'ble CAT dated 01.10.2013 in O.A. No.800/2013. It further records that the petitioner filed the second O.A. No.200/401/2015 before the CAT, Jabalpur again for the consideration of his inter-cadre transfer from Manipur-Tripura to Madhya Pradesh. This case, the order records, was disposed of vide order dated 18.06.2015 directing the Union of India to decide the question of inter-cadre transfer within a period of two months, if not already decided. The order further discloses that the matter had already been placed before the Committee concerned, headed by the Secretary, DoPT, and its decision was communicated on 10.06.2015 to the petitioner and therefore, no action was required to be taken by the Union of India pursuant to the order dated 18.06.2015 passed by the Hon'ble CAT. In Paragraph 4, the order discloses that on receipt of representations from the petitioner for extension of his inter-cadre deputation tenure, the matter was re-examined, and the Government of Madhya Pradesh was requested to

relieve him by the order of the respondent dated 31.01.2019 pursuant to which the Government of Madhya Pradesh relieved the petitioner on 06.02.2019. The order further discloses that the petitioner filed a third O.A. No.200/211/2019, whereby the relieving order of the Government of Madhya Pradesh dated 06.02.2019 was challenged and finally, the Hon'ble CAT, Jabalpur vide its order dated 29.10.2019 disposed off the O.A. *inter-alia* directing the Union of India to reconsider the case of inter-cadre transfer of the petitioner from Manipur to Madhya Pradesh and till such time the decision is taken by the Union of India, the petitioner would continue on deputation in the State of Madhya Pradesh.

10. Thereafter, in Paragraph 6 of the said order, it was held that in the extant guidelines dated 08.11.2004, the maximum period permissible for inter-cadre deputation was 07 years and that there would be a mandatory cooling off period of the deputation. It also observed that the petitioner had completed more than the maximum permissible period of deputation of more than 08 years and 07 months (as on 20.07.2020). As regards, the proposal of the inter-cadre transfer of the petitioner, in Paragraph 6(3) the order discloses that the proposal for the inter-cadre transfer was rejected after considering the grounds of extreme hardship into account and the same was conveyed to all concerned. It further held that based on the IB report dated 26.02.2020, the fresh enquiries did not reveal any specific input to indicate any threat to the petitioner and his family members at present from NSCN-IM or any other underground group operating in Manipur. It further disclosed that the overall security scenario has improved in the North-East especially in Manipur. It

also disclosed that the influence of the NSCN-IM, the outfit from which the petitioner was apprehending the danger, has also reduced considerably and that the outfit is engaged in the Naga Peace Talks with the Government of India.

11. It further disclosed that they were non-locals as well as locals of different services of equivalent seniority of the petitioner, who were posted in the State capital and also that the petitioner was physically away from Manipur-Tripura State for more than 10 years. The order also reveals the fact that notification dated 07.06.2010 relating to the petitioner's inter-cadre deputation with Government of Madhya Pradesh for a period of 03 years, it was clearly mentioned that he shall be liable to disciplinary action and break his service, in case, he does not hand over the charge at the end of the approved period of deputation. Besides, it is revealed in the said order that the petitioner having been relieved by the State of Madhya Pradesh on 06.02.2019 based upon the letter of 31.01.2019, he has never joined his parent cadre in Manipur-Tripura till the passing of the said order. The order also takes cognizance of the fact that it is against public policy on inter-cadre transfer as well as deputation for the civil servants to approach the Court without undergoing the established due process and would set an utterly bad precedent and stall the established policy guidelines bringing the administration to chaos. In Paragraph 15 of the order, the respondent has referred to the IB report of 26.02.2020, which disclosed that fresh enquiries by the IB did not reveal specific input to indicate any threat to the petitioner and his family members at present from NSCN-IM or any other underground

group operating in Manipur-Tripura. It further disclosed that the overall security scenario has improved in the North-East, especially in Manipur and that the influence of the NSCN-IM has been considerably reduced in the State. After that, in Paragraph 17, the respondent No.1/Union of India, discloses that the request of the petitioner for inter-cadre transfer was considered and rejected by the Competent Authority vide order dated 10.07.2020.

12. Learned counsel for the petitioner has submitted that the threat faced by the petitioner continues even today. He further submits that those, because of whom he had to leave Manipur-Tripura in 2006, are still active in the State. Under the circumstances, the learned counsel for the petitioner has prayed for a mandamus from this Court directing the respondents to shift the cadre of the petitioner from Manipur-Tripura to Madhya Pradesh.

13. Learned counsel for the respondent No.1/Union of India, on the other hand, has submitted that passing such a mandamus in favour of the petitioner would set off a very bad precedent and would open a flood gate, where public or government servants would approach this Court, seeking transfer out of places that they consider as unfavourable, uncomfortable and unworkable on the aspect of threat to life. He has further argued that the last IB report of 2020 clearly reveals that there is no issue of any continuing threat to the life of the petitioner and the 2020 report of the IB states that there is no specific intelligence input to show that the petitioner or his family is at any kind of risk in Manipur. It must also be mentioned here that the learned counsel for the petitioner had argued that another Officer, who was

junior to the petitioner, whose threat perception was much lower than that of the petitioner, had applied for change in cadre, and the same was considered and allowed by the High Court of Delhi on the basis of which the Government adjusted him in another State. Learned counsel for the respondent No.1/Union of India submits that what the facts and circumstances of the other case were cannot be looked into as the respondents are not aware of the facts and circumstances of that case. Learned counsel for the respondent has also argued that there were multiple IB reports in this case and the last in the year 2020 clearly discloses that the petitioner does not face any specific threat to his life. He has further argued that the Court cannot supplant its own opinion with regard to the threat perception faced by the petitioner and that institutions like the Intelligence Bureau inputs are what must be referred to and relied upon by this Court.

14. Learned counsel for the respondent further submitted that though the period of deputation of the petitioner expired in 2013, he has stayed over in Madhya Pradesh from 2013 till date on the basis of various orders passed by the Hon'ble CAT, which had on two occasions granted him relief on the basis of which he continued. As regards the IB reports, they are of the year 2009, 2015 and 2020. Learned counsel for the respondent submits that while the report of 2009 discloses that there is no threat to the petitioner, the report of 2015 discloses that there is a probability of threat to the petitioner as there was nothing to show that the danger he faced from the NSCN-IM has ceased to exist. However, he further submits that the IB report of 2020 clearly shows that there is no specific input with regard to any kind of threat to the life of

the petitioner.

15. Heard the learned counsel for the parties and perused the record of the case.

16. The only issue before this Court is whether it must interfere and issue a mandamus to the Government in a case where it is the discretion of the Union Government to decide where its servant works. The petitioner from 2002 to 2006 was working as Deputy Commissioner, Ukhrul in Manipur itself. Thereafter, he left the State after the incident with the two MLAs, where according to the petitioner, he was assaulted in his house on 28.01.2006 and 30.01.2006. There is nothing to show that any FIR was registered pursuant to the said action by the two MLAs, where they have been named as accused. If what the petitioner says is true and correct, the allegation relating to the incident is very serious. It is unthinkable that a Deputy Commissioner of a District could be assaulted in his own house by outsiders after trespassing. In such a situation, this Court cannot be faulted for wanting to see the FIR registered by the petitioner, if at all. No such FIR has ever been placed on record and neither has it been shown to this Court today. The reference to the IB reports by the learned counsel for the petitioner, which disclose that the FIR withdrawn by the MLAs in question, who were the assailants. Such an observation creeping into the IB report of 2009 is disconcerting. This Court is justified in expecting the Officer, who prepared the IB report, to have an understanding of law that once an FIR is registered, the same cannot be withdrawn or closed by the Police. An FIR once registered, can only be closed by the Lower Court upon a closure report

given by the Police and accepted by the Court or, where it is quashed by the High Court exercising power under Section 482 of Cr.P.C., or by the Supreme Court using its inherent jurisdiction. Besides the three, an FIR cannot be closed or brought to an end either by the Police or by a political person, but nonetheless, the IB has recorded that. However, the report of 2009 does not specifically disclose any threat to the petitioner. The IB reports of 2014 and 2015 do disclose that the IB did not had any material with them to arrive at a conclusion that a threat against the petitioner existing in the year 2006 had ceased to exist. However, IB report of 2020 clearly discloses that there are no specific inputs relating to any kind of threat being faced by the petitioner.

17. This Court has also considered the arguments put forth by the learned counsel for the petitioner that the consequences for the petitioner may be serious, if the threat still continues to the petitioner, notwithstanding the report of 2020 given by the IB. The said submission is speculative. All services under the State come with their attendant hazards related to the occupation. The contention that the petitioner's cadre ought to have been transferred to Madhya Pradesh after his 03 years tenure of transfer on deputation ended in the year 2013. Learned counsel for the petitioner has not been able to show this court of any provision that mandates such course of action.

18. This Court feels compelled to comment on the conduct of the petitioner as also that of the Union of India. After the order passed by the respondent No.1/Union of India dated 20.07.2020, the same was challenged

by way of O.A., which was dismissed on 22.06.2021 against which the present writ petition has been filed in which there is no order of stay, or any kind of interim relief given to the petitioner to continue in Madhya Pradesh. Despite that, the petitioner has been away without leave for 4 years. However, the Union of India has patronized the petitioner by not proceeding against him by issuing a show cause notice, placing him under suspension or conducting a departmental enquiry, which only goes to demonstrate that the petitioner has friends in very high places in Union of India that he has been able to get away for 04 years, unscathed without any proceedings being initiated against him.

19. As regards, the contention of the learned counsel for the petitioner that another Officer junior to the petitioner with lesser threat perception was shifted from Manipur to another State and that he seeks parity with that person, the said argument is rejected as the facts and circumstances of that case would have been different, which compelled the Union of India to transfer the Officer in that case from Manipur to another State. As regards, the case of the petitioner herein, after the passage of more than 18 years, the ground realities in Manipur have changed (as per the IB reports relied upon by the Union of India in its various orders) and there is no threat being faced by the petitioner. Under such circumstances, this Court accepts the argument put forth by the learned counsel for the respondent that the requirement to take work out of an employee is the sole prerogative of the employer. The employer being the Union of India and is of the opinion that there are no threats being faced by the petitioner as on date and that he should join his

original cadre in Manipur-Tripura and discharge his functions from there, cannot be interfered with by this Court under its plenary powers under Article 226 of the Constitution of India as no such circumstances have been disclosed by the petitioner. As already stated hereinabove, the issue relating to the incident, which led to the petitioner asking for a transfer out of the State of Manipur-Tripura itself is doubtful as there is no FIR placed on record to show that a criminal case was initiated against the two MLAs. Neither the Police Station nor the FIR number given in the body of the petition. All the other documents referring to the assault and to the FIR and its withdrawal by the MLA is also doubtful as they also do not mention the FIR number or the Police Station, where the FIR was registered.

20. In view of what has been argued before this Court, considered and held as hereinabove, this petition lacks merits and is hereby dismissed.

(ATUL SREEDHARAN)
JUDGE

(DINESH KUMAR PALIWAL)
JUDGE

Shruti