

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

AND

THE HON'BLE SMT JUSTICE ANIS

WRIT PETITION NO.18266 OF 2015

ORDER: *(per Hon'ble Justice Nooty Ramamohana Rao)*

The State has preferred this writ petition aggrieved by the orders passed on 17.03.2015 by the Andhra Pradesh Administrative Tribunal, allowing the O.A.No.6850 of 2014 preferred by the first respondent herein. The first respondent who was employed as a Part-time Village Assistant has been transferred and posted as Part-time Village Revenue Officer, Annaluru Village Cluster of S. Mydukuru Mandal, Kadapa District, on the ground that he had rendered considerable length of service at Muddanur-1, Revenue Cluster of Muddanur Mandal of Kadapa District. The Tribunal, surprisingly interfered with the order dated 14.11.2014 of the Collector without in so many words setting forth any reasons as to why the order of transfer passed by the Collector is otherwise not sustainable. What possibly weighed with the Tribunal can be gauged by its reference in paragraphs 2 and 6 of its brief order, to a memorandum issued by the government on 07.07.2009, making it clear that Part-time Assistants are allowed to continue in their native village/cluster.

In exercise of the power available under the proviso to Article 309 of the Constitution of India, the Andhra Pradesh Part-time Assistants Service Rules, 2009, have been framed and they have been notified through G.O.Ms.No.626 Revenue (Village Administration) Department dated 23.06.2009. Rule 7 thereof has set out that the District Collector shall be the transferring authority, while Rule 8 prescribed the age of superannuation to be 62 years. Rule 6 has made it very clear that the existing Part-time Assistants will continue till their retirement only and afterwards the vacancies will be

filled up only as per the Village Revenue Officers Service Rules on regular basis and no fresh recruitment will be done to fill-up the post of Part-time Assistant. Thus, if these rules are read together, it emerges that the Part-time Village Assistants are a cadre which is getting extinguished with each one of such Part-time Assistants retiring from service. Even while so, Rule 7 made the position clear by setting forth that the District Collector shall be the transferring authority. Therefore, even for these Part-time Village Assistants, transferability is ascribed. Now, turning to the memorandum dated 07.07.2009, which provided inspiration for the Tribunal to interdict the order of transfer passed by the Collector, merely makes it clear that Part-time Assistants are allowed to continue in their native village/cluster. In other words, a Part-time Village Assistant is permitted to be posted to his native village/cluster. Perhaps, a regular/Full-time Village Revenue Officer may not enjoy such a facility. That would be the distinction. But, it does not mean that Part-time Village Assistant cannot be transferred from out of his native village/cluster. If it were to be so, Rule 7 would become absolutely redundant and otiose. Therefore, we are not able to subscribe to the views of the Tribunal in allowing O.A.No.6850 of 2014. This apart, the order of transfer, as is too well known is purely an incidence of service. No penal consequences will flow from out of any such order. Hence, it is a prerogative for the administration to manage its cadres by subjecting its employees to periodic transfers. Periodic transfers are indulged in to prevent an employee developing vested interests at one particular place or the other. Therefore, for interdicting such an order of transfer passed on administrative grounds, there should have been greater reason available. In the absence thereof, the order passed by the Andhra Pradesh Administrative Tribunal is wholly unsustainable and it is accordingly set-aside.

However, Sri T.V.S. Suresh Kumar would urge that the first respondent shall be granted liberty to file a detailed representation for

consideration of the Collector for his retention at a particular village/cluster. It is for the first respondent to draw any such representation and submit the same to the District Collector for his consideration and as and when any such attempt is made, we are confident, the Collector would spare due and appropriate consideration to the contents thereof, particularly in view of the fact that the first respondent is stated to be due for retirement by the end of March, 2016.

Writ petition stands allowed accordingly. No costs.

Consequently, miscellaneous applications pending if any shall also stand closed.

JUSTICE NOOTY RAMAMOHANA RAO

JUSTICE ANIS

20.07.2015
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