

**THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO
AND**

THE HON'BLE MRS. JUSTICE ANIS

WRIT PETITION No. 27796 OF 2015

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

Heard learned counsel for the petitioner as well as learned Government Pleader for Irrigation and CAD (Andhra Pradesh). We have also the assistance of the Engineer-in-Chief (Administration) of the Water Resources Department.

The petitioner, who is working as an Assistant Engineer in the Irrigation Circle at Dowleshwaram, Gouthami Head Works Division, instituted O.A.No. 4834 of 2015 before the Andhra Pradesh Administrative Tribunal, challenging the validity of the proceedings, dated 15.08.2015, by which he has been transferred and posted from Vasista Sub-Division at Siddantham in West Godavari District to the Irrigation Circle, Goutami Sub-Division at Dowleshwaram in East Godavari District.

The grievance of the petitioner is that the unofficial respondent No. 5 has been posted in his place from Quality Control of the Vigilance and Enquiries Circle, Gudivada. It is the case of the petitioner that the unofficial respondent No.5 is posted to the Quality Control Circle only eight months back because of serious allegations that surfaced against him. For no justifiable reason, the petitioner is sought to be shifted from out of the Sub-Division at Siddantham and posted at Dowleshwaram.

So long as the administrative necessities and exigencies demand and so long as transferability is part of the terms and conditions of employment itself, no grievance can be made out of transfer of employees from one place to another. But, at the same time, subjecting employees to frequent transfers and also half way through the academic life of their wards is likely to leave an impression that the interests of only very few government servants, who have

access to the right sources, will be taken note of and all others will be left to fend for themselves. The State has to act neutrally, but, at the same time, it is vested with the power to utilize the available manpower effectively and efficiently. It is for them, hence, to order for transfer and posting of its employees. So long as the said exercise is not tainted by malice, either in law or in fact, the judicial review exercise is hardly warranted. This apart, if there is any executive instruction issued by the government trying to regulate the arbitrary exercise of power by the administrators including the Heads of the Department, it is open to the aggrieved person to submit a detailed representation bringing out as to why he cannot be subjected to a transfer and any such representation will have to be spared its attention, as promptly as is possible, at any rate, within a period of 15 days' time from the date of receipt of such a representation.

One disturbing feature, which we have noticed, has made us send word for the Engineer-in-Chief. The proceedings are dated 15.08.2015. In this country, 15th August, 26th January and 2nd October are declared as national holidays. No public office, including that of the Engineer-in-Chief, would be kept open. It would be a different matter that even on a public holiday, the public servants, depending upon the exigencies and urgency, would be attending to the work, but however, issuance of proceedings on a public holiday, perhaps, is not the most appropriate of things. We only hope that the Engineer-in-Chief will ensure that appropriate instructions are issued to all concerned to avoid repeating any such error henceforth.

Hence, preserving liberty to the petitioner to submit a representation to the respondents and with the hope that the same will be paid its due attention, we dispose of this Writ Petition at the admission stage. No costs.

Consequently, the miscellaneous applications, if any shall stand disposed of.

NOOTY RAMAMOHANA RAO, J

ANIS, J

1st September 2015

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