

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

AND

THE HON'BLE MRS. JUSTICE ANIS

WRIT PETITION No. 36639 OF 2015

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

This Writ Petition is directed against the order dated 21.09.2015 passed by the Central Administrative Tribunal, Hyderabad Bench at Hyderabad in O.A.No. 697 of 2015 instituted by the 9th respondent herein.

The 9th respondent herein has been transferred and posted to Navodaya Vidyalaya, Yanam, Pandichery State while he was working at Navodaya Vidyalaya, Pathanamthitta, Kerala State. Pursuant to that order of transfer dated 17.12.2010, he came and joined at Yanam, whereas the petitioner herein was earlier working as an L.D.Clerk at Yanam and when she earned a promotion as U.D.Clerk in 2011, she has been subjected to a transfer and posted to Navodaya Vidyalaya at Kurnool. She joined at Kurnool and now, at her request, an order of transfer is being passed shifting the 9th respondent to Kurnool and posting the writ petitioner to the school at Yanam. These orders are passed on 18.05.2015. Questioning this, the 9th respondent instituted the aforementioned O.A. He placed reliance upon the policy adopted by the Navodaya Vidyalaya Samiti which was notified on 04.04.2012. It is clearly spelt out therein that the transfer policy for regulating transfer of employees of Navodaya Vidyalaya Samiti was placed before the Executive Committee of the Samiti at its meeting held on 22.12.2011 and the matter was placed for consideration of the Hon'ble Minister for Human Resource Development, Government of India and after incorporating the suggestions, the transfer policy, as approved by the Hon'ble Minister, has been notified. The policy was brought into force with immediate effect declaring that henceforth, transfers of employees of Navodaya Vidyalaya Samiti will be regulated as per the provisions and terms contained in the said policy. In paragraph 2, the guidelines and basic principles, which are required to be followed, have been spelt out. Paragraph 4 of this policy declared the normal tenure of stay at particular station for certain posts in the Vidyalayas. While for Principal and Vice-Principal, the normal tenure is five years

and three years in case of hard and North East region, for PG Teachers, Trained Graduate Teachers and other teachers, it is 10 years, for Office Superintendent, it is five years and for Staff Nurse, Catering Assistant and UDC, LDC/Store Keeper, it is ten years. It was also mentioned that non-teaching staff will be transferred to another Jawahar Navodaya Vidyalaya in the same region on completion of prescribed tenure. Paragraph 6 dealt with administrative transfer of employees and also prescribed the method and manner in which the same should be affected. This transfer policy framed by the Navodaya Vidyalaya Samiti certainly binds the said Samiti. The obvious purpose, which is sought to be achieved by this policy, was to secure transparency and equitable consideration to be shown to all the employees. By virtue of this policy, the 9th respondent is justified in his claim that he is entitled to continue for a period of ten years at Yanam where he was posted upon transfer from Pathanamthitta in Kerala State. Therefore, in our opinion, the Tribunal interfered with the impugned order of transfer of the 9th respondent herein as there are no reasons assigned. It was obvious from the record that to accommodate the writ petitioner, the 9th respondent in the Writ Petition has been shifted out of the school at Yanam and he has been posted to Kurnool. In the face of this policy decision, which binds the Samiti, the Tribunal has interfered with the said order.

In normal circumstances, this Court would be very reluctant and slow to interfere with an order of transfer, as, it is conceded that the employer has a right to affect transfer on administrative grounds of its employees. Sometimes larger public interest compels the employer to affect transfer of its employees, so that the service of the employees can be best utilized in discharging the functions of the Samiti. But however, when the employer himself frames a policy and would declare that all such transfers will abide by the same, it is his conduct in departing there from which would be scrutinized. Since no reasons are made available for affecting the transfer of the 9th respondent herein from out of the school at Yanam before he completed the assured ten-year tenure there, the Tribunal appears to have been justified in interfering with the order of transfer.

Sri N. Srinath Rao, learned Standing Counsel for Navodaya Vidyalaya Samiti would submit that in fact, after the judgment has been rendered by the Tribunal, the writ petitioner has been issued an order modifying her transfer to the school at Yanam by shifting her now to the School in West Godavari District.

Therefore, we do not find any justifiable reason to entertain this Writ Petition and it is accordingly, dismissed. No costs.

Consequently, the miscellaneous applications, if any shall also stand dismissed.

NOOTY RAMAMOHANA RAO, J

ANIS, J

29th October 2015

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