

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLR SRI JUSTICE M.SATYANARAYANA MURTHY

WRIT PETITION NO.10550 OF 2015

ORDER: {Per the Hon'ble Sri Justice Ramesh Ranganathan}

This Writ Petition is filed against the order passed by the Andhra Pradesh Administrative Tribunal, Hyderabad, in O.A.No.1835 of 2015 dated 08.04.2015.

The petitioner herein is the applicant in the O.A. She invoked the jurisdiction of the Tribunal questioning the proceedings issued in G.O.Rt.No.219 dated 02.04.2015 posting her as a faculty in the E.T.C. (Training Centre) in Rajendranagar, Ranga Reddy District. It is her case that, though she gave a representation as early as on 24.02.2015 not to transfer her till May/June 2015, she was transferred. The Tribunal held that for posting her by way a transfer, as a faculty member in the training centre which was an equivalent post to that of an M.P.D.O., no consent of the applicant was necessary; even if it is by way of deputation, the petitioner's consent is immaterial; it is only for sending the petitioner to foreign service, as defined in the A.P. Fundamental Rules, is consent necessary; posting her as a faculty member in the training centre does not amount to sending her to a foreign service; and there was no reason to interfere in the matter. The O.A. was dismissed.

Dr. P.Bhaskara Mohan, learned counsel for the petitioner, would draw attention of this Court to G.O.Ms.No.360 dated 11.11.2011, more particularly to paragraph No.3 (ii) and (iii) thereof, to submit that, without the consent of the employee, no person can be transferred as a faculty member of the training institute. Paragraph No.3(ii) and (iii) of G.O.Ms.No.360 dated 11.11.2011 read as under:-

"Normally the borrowing departments such as APARD, Dr.MCRHRD Institute, Commissioner, Rural Development, SERP, State Election Commission, etc., have their own procedure to select the candidates who are seeking deputation to their organization as per their suitability to the post. Hence, a panel of shortlisted officers who are willing to work in the above organisations as per their seniority shall be forwarded to the borrowing department/agencies concerned to select an officer among the willing officers. The selected candidates only be relieved for the new assignment in the borrowing department.

If there is no selection procedure in the borrowing department, seniority shall be the

criteria for deputation. Whenever a senior person in the seniority list refuses to go on deputation, the next person shall be given an opportunity.”

It is evident from paragraph No.3(ii) above that the training centre, to which the petitioner has been transferred to/or sent on deputation is not one among the institutes referred to therein. Dr. P. Bhaskara Mohan, learned counsel for the petitioner, would submit that use of the word “etc.” would bring this training centre also within the ambit of paragraph No.3(ii) of G.O.Ms.No.360 dated 11.11.2011. It is wholly unnecessary for this Court to examine whether or not the training centre falls within the ambit of para 3(ii), as G.O.Ms. No.306 dated 11.11.2011 does not have statutory sanction as it is neither law made by the State Legislature or a Rule made by the Government, in the exercise of its powers under the proviso to Article 309 of the Constitution of India. This G.O. was issued in the exercise of the executive power of the Government under Article 162 of the Constitution of India. They are administrative/executive instructions in character and do not have the force of law. Executive instructions, issued by the Government/public authorities with regard to transfers, are in the nature of guidelines and do not have statutory force. (**Union of India v. S.L. Abbas**). Transfer guidelines do not enable any employee to claim a posting of his choice as of right, if the authorities do not consider it feasible. This aspect should be considered, along with exigencies of administration, (**Bank of India v. Jagjit Singh Mehta; S.L. Abbas¹**), by the authority ordering the transfer and he should keep in mind the guidelines issued by the Government/public authorities on the subject. Guidelines regarding transfer do not confer upon the Government employee a legally enforceable right. (**S.L. Abbas¹; Major General J.K. Bansal v. Union of India**).

Administrative guidelines, regulating transfers or containing transfer policies, may at best afford an opportunity to the officer or servant concerned to approach their higher authorities for redress, but cannot have the consequence of depriving or denying the competent authority to transfer a particular officer/servant to any place in public interest, and as is found necessitated by the exigencies of service, as long as the official status is not affected adversely and there is no infraction of any career prospects such as seniority, scale of pay and secured emoluments. (**State of U.P. v. Gobardhan Lal**). Courts or Tribunals would not quash orders of transfer merely because administrative instructions/guidelines are not followed. (**S.L. Abbas¹**). An

order of transfer, made even in transgression of administrative guidelines, cannot be interfered with, as they do not confer any legally enforceable rights unless it is shown to be vitiated by malafides or is made in violation of any statutory provision. (**Gobardhan Lal**⁴). Instead, the affected party should be relegated to approach the higher authorities in the department. (**Shilpi Bose v. State of Bihar; Major General J.K. Bansal**³). We see no reason, therefore, to interfere with the order of the Tribunal.

The Writ Petition fails and is, accordingly, dismissed. There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand closed.

(**RAMESH RANGANATHAN, J**)

(**M.SATYANARAYANA MURTHY, J**)

15th April 2015

RRB