

**THE HON'BLE SRI JUSTICE C.V.NAGARJUNA
REDDY**

**AND
THE HON'BLE SRI JUSTICE G.SHYAM PRASAD**

WRIT PETITION No.17584 of 2016

09.06.2016

Between:

K.Mahalingappa

..Petitioner

And

The State of Andhra Pradesh,
represented by its Secretary,
Panchayat Raj and Rural Development Department,
Hyderabad and others

..Respondents

Counsel for the petitioner: Mr.Y.Srinivasa Murthy for Mr.T.S.Anand

Counsel for the respondents: Government Pleader for
Services (AP)

The Court made the following:

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ORDER: (Per the Hon'ble Sri Justice C.V.Nagarjuna Reddy)

The unsuccessful applicant in O.A.No.1564 of 2016 on the file of the Andhra Pradesh Administrative Tribunal, Hyderabad (for short 'the Tribunal'), filed this writ petition feeling aggrieved by the order, dated 22.04.2016, passed in the said O.A.

2. The relevant facts having already been noted by the Tribunal, it is unnecessary for us to repeat the same. However, it will suffice to note that the grievance of the petitioner is that in spite of the ban on transfers, respondent No.3 disturbed the petitioner's place of posting from Vigilance and Quality Control (PR) Sub Division I, Kurnool to PIU Sub Division, Nandikotkur, Kurnool vice respondent No.6. The Tribunal, however, was not prepared to accept this plea and held that the purported transfer was not made in violation of any statutory provision or hit by *mala fides*. The Tribunal relied upon the judgments of the Apex Court in **State of U.P. vs. Siya Ram**^[1], **V.G.Sabu vs. Gobardhan Lal**^[2], **Mohd.Masood Ahmad vs. State of U.P.**^[3] and **Airports Authority of India vs. Rajeev Ratan Pandey**^[4].

3. Mr.Y.Srinivasa Murthy, learned counsel representing Mr.T.S.Anand, learned counsel for the petitioner, has submitted that a perusal of the order, dated 05.03.2016, impugned before the Tribunal shows that in order to indirectly overcome the ban order, respondent No.3 lent the movement of the petitioner and respondent No.6, the name of deputation and that therefore, the said order is a camouflage, which cannot receive the seal of approval of the Tribunal and the Court. The learned counsel, however, has not disputed the fact that as per G.O.Ms.No.298, General Administration (MC.I) Department, dated 03.06.2011, deputations due to unavoidable administrative contingency must be made from the same local cadre i.e., from the person belonging to the same local cadre.

4. It is not in dispute that both the petitioner as well as respondent No.6 belong to the same local cadre. Therefore, the order impugned before the Tribunal cannot be viewed as a transfer order. As rightly held by the Tribunal, even if the same is construed as transfer and in violation of the ban order, as such ban order does not have statutory force, the same is not enforceable in a Court of law and any action taken in violation of such non-statutory instructions is not justiciable in a Court of law. If the said order is construed as a deputation, the same is in conformity with the aforesaid G.O. Thus, either way, the petitioner cannot successfully challenge his shifting as Deputy Executive Engineer to PIU Sub Division, Nandikotkur, Kurnool.

5. For the aforementioned reasons, we do not find any merit in this Writ Petition and the same is, accordingly, dismissed.

6. As a sequel to dismissal of the Writ Petition, W.P.M.P.No.21606 of 2016 filed by the petitioner for interim relief shall stand dismissed as infructuous.

C.V.NAGARJUNA REDDY, J

G.SHYAM PRASAD, J

09th June, 2016
GHN

[\[1\]](#) (2004) 7 SCC 405

[\[2\]](#) (2004) 11 SCC 402

[\[3\]](#) (2007) 8 SCC 150

[\[4\]](#) (2009) 8 SCC 337