

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

THE HON'BLE SRI JUSTICE G. SHYAM PRASAD

WRIT APPEAL No. 1419 of 2016

JUDGMENT: (*Per VRS,J*)

The writ appeal arises out of an order passed by the learned single Judge, refusing to interfere with an order of transfer.

2. Heard Mr. V. Narasimha Goud, learned counsel for the appellant. Mr. A. Ravi Babu, learned standing counsel for Telangana State Road Transport Corporation, takes notice for the respondents.

3. The primary contention of the learned counsel for the appellant is that within two years of the posting of the appellant in the present station, he has been transferred to a place at a distance of 300 kilometers and, that too, in the middle of the academic year. This, according to the learned counsel, is in violation of the guidelines framed by the Managing Director under Circular, dated 15.09.1994.

4. The learned counsel also relies upon a Full Bench decision of the Karnataka High Court in *Chandru H.N. Vs. State of Karnataka and others*¹, wherein a Full Bench of the Karnataka High Court held that in the absence of any provision in the statutory Rules, executive

¹ 2011 (8) SLR 331

instructions issued in terms of Article 162 of the Constitution would take the place of statutory Rules.

5. We have carefully considered the above submissions.

6. There are two difficulties about the decision of the Full Bench of the Karnataka High Court. The first is that the respondent herein is not a State, but actually a State-owned Corporation, to which, the principles regarding executive instructions issued under Article 162 would not apply. The second is that the Full Bench of the Karnataka High Court did not take note of various decisions of the Supreme Court, which examined the guidelines issued by way of executive instructions in matters relating to transfer, and held that those guidelines are only directory and not mandatory.

7. Therefore, the learned single Judge was technically right in refusing to interfere with the order of transfer. Hence, we find no reason to interfere with the order of the learned Judge. Therefore, the Writ Appeal is dismissed. However, the appellant may give a representation with regard to the difficulties faced by him and the factum of his two daughters going to college and school. If such a representation is made, the respondents shall consider the same, in accordance with law, and pass orders, within two (2) weeks.

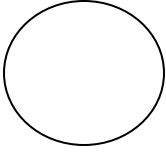
Consequently, miscellaneous petitions if any pending in the writ appeal shall stand dismissed. No order as to costs.

V. RAMASUBRAMANIAN, J

G. SHYAM PRASAD, J

22nd December, 2016
cbs





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