

The Hon'ble Sri Justice C.V.Nagarjuna Reddy
and

The Hon'ble Sri Justice M.S.K.Jaiswal

Writ Petition No.10540 of 2016

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Date: 01.04.2016

Between:

Shaik Kalesha Vali

.. Petitioner

and

The Union of India
rep. by its Secretary
Dept. of Telecommunications,
New Delhi and 3 others

.. Respondents

**Counsel for the petitioner :
Reddy**

Mr.Kasa Jaganmohan

Counsel for respondent No.1: Mr.B.Narayana Reddy,
Asst. Solicitor General

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Counsel for respondent Nos.2 to 4: Mr.B.Devanand

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The Court made the following:

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

The attitude of one-upmanship between the petitioner and the respondents appears to be the reason for this needless litigation.

The petitioner, who is a telecom mechanic working under the jurisdiction of respondent No.4, made a request on 14.02.2012 for his transfer to a vacant post at Jaggayyapet under the control of D.E. (Transmission and Maintenance), Vijayawada. As the same was not considered, another request was made by him on 09-12-2013 for his transfer to the above mentioned place *i.e.*, Jaggayyapet or alternatively to Vijayawada under the control of D.E. (Transmission and Maintenance), Vijayawada. However, without considering those requests within a reasonable time, respondent No.4 has transferred the petitioner from Jaggayyapet to Vijayawada by Order, dated 27-03-2015. Instead of joining at the transferred place, the petitioner applied for leave and filed OA.No.020/01598/2015,

dated 28-01-2016, before the Central Administrative Tribunal Bench at Hyderabad (for short 'the Tribunal') and by Order, dated 28.01.2016, the Tribunal has dismissed the said OA. Aggrieved by the said order, the petitioner filed the present Writ Petition.

In Paragraph 6 of the impugned order, the Tribunal has taken note of the stand taken by the respondents during the conciliation proceedings before the Assistant Labour Commissioner (c) wherein they have expressed their readiness to consider the petitioner's request for retransfer to Jaggayyapet, if he reports at Vijayawada and works for 6 months in Transmission and Maintenance, Vijayawada, and permitted the petitioner to make a suitable representation to the respondent concerned for his retransfer and directed the respondents to take appropriate decision in accordance with the Rules, if such representation is received.

Under service jurisprudence, transfer is an incidence of service. Therefore, Ordinarily, Courts will not interfere with the orders of transfers

unless they are made *mala fide* or in violation of the Rules.

The learned Counsel for the petitioner submitted that as per the extant Rules, a person, who crosses the age of 56 years, shall not be transferred from the place of his work. We refrain from expressing any opinion on this submission for the simple reason that Vijayawada is situated in close proximity to Jaggayyapet and no undue hardship could be complained by the petitioner on account of such transfer. At any rate, since respondent No.4 himself has agreed before the Assistant Labour Commissioner that the petitioner will be retransferred after six months of his reporting to duty at Vijayawada, we decline to interfere with the transfer order. The petitioner shall join duty at Vijayawada within one week and on expiry of six months, respondent No.4 shall retransfer him to Jaggayyapet as undertaken before the Assistant Labour Commissioner. The petitioner is permitted to make a representation to respondent No.4 for retention of his quarter at Jaggayyapet subject to usual terms. On receipt of such representation, respondent No.4 shall consider the same

sympathetically keeping in view the fact that petitioner will be retransferred to Jaggayyapet on expiry of six months.

Subject to the above directions, the Writ Petition is disposed of.

As a sequel to disposal of the Writ Petition, WPMP.Nos.13277 and 13278 of 2016, filed by the petitioner for interim relief, are disposed of as infructuous.

(C.V.Nagarjuna Reddy, J)

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(M.S.K.Jaiswal, J)

Dt: 1st April, 2016
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