

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

THE HON'BLE SRI JUSTICE G. SHYAM PRASAD

WRIT PETITION No. 38269 of 2016

ORDER: (*Per VRS,J*)

The petitioner has come up with the above writ petition, challenging an order of the Andhra Pradesh Administrative Tribunal dismissing her application challenging the cancellation of her previous order of transfer.

2. Heard Mr. T. Koteswara Rao, learned counsel for the petitioner. Learned Government Pleader for Services (AP) takes notice for the official respondents. Ms. Pranathi, learned counsel, takes notice for the 3rd respondent.

3. By G.O.Rt.No.368, Transport, Roads & Buildings Department, dated 20.06.2016, the Government ordered the transfers and postings of several Superintending Engineers. The petitioner, who is a Superintending Engineer, was actually on deputation with Acharya N.G. Ranga Agricultural University. By the said G.O.Rt.No.368, she was repatriated to her parent Department and posted as Superintending Engineer, (R & B) Circle, Anantapur, in the place of Mr. Y.R. Subramanyam, Superintending Engineer, 3rd respondent

herein. The 3rd respondent, in turn, was transferred on administrative exigency in public interest and placed on deputation with Infrastructure Corporation of Andhra Pradesh, Energy Department.

4. It appears that the 3rd respondent filed an application in O.A.No.2299 of 2016 on the file of the Andhra Pradesh Administrative Tribunal, challenging the G.O.Rt.No.368, dated 20.06.2016, contending that his dispatch to an Infrastructure Corporation on deputation was contrary to G.O.Ms.No.102, Finance (HR.I.PLG.Policy) Department, dated 10.06.2016. The said application was disposed of by the Tribunal, by an order, dated 27.06.2016, directing the Government to consider his representation and to pass orders.

5. Pursuant to the order of the Tribunal, the Government issued an order in G.O.Rt.No.569, Transport, Roads & Buildings (SER) Department, dated 23.09.2016, canceling the order of deputation of the 3rd respondent and directing both the petitioner as well as the 3rd respondent to report to the Engineer-in-Chief for further orders.

6. Challenging the said order and claiming that she is entitled to be retained in Anantapur itself, as per the original order, dated 20.06.2016, the petitioner went before the Tribunal by filing O.A.No.3856 of 2016. The Tribunal rejected her claim, by an order,

dated 02.11.2016, forcing her to come up with the present writ petition.

7. At the outset, we do not know how the petitioner can stake a claim to a particular place. It is true that by the order in G.O.Rt.No.368, dated 20.06.2016, the petitioner's deputation was terminated and she was posted to Anantapur where the 3rd respondent was working. The 3rd respondent, by the very same order, was deputed to an Infrastructure Corporation. He approached the Tribunal and secured an order for considering his representation. Upon consideration of his representation, the authorities had come to a conclusion that the deputation of the 3rd respondent to an Infrastructure Corporation, especially when he was to retire by 31.07.2017, was not legal. This is why the order impugned by the petitioner has been passed.

8. As a matter of fact, Fundamental Rule 110 (a) states clearly that no Government servant may be transferred to foreign service against his will. Therefore, the cancellation of deputation of the 3rd respondent, by G.O.Rt.No.569, dated 23.09.2016, cannot be taken exception to.

9. Moreover, one of the important pleas raised by the 3rd respondent in Paragraph-6 of his counter affidavit before the Tribunal

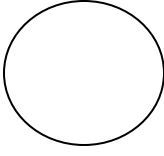
is that the petitioner did not even complete three years of deputation, which is mandatorily required. In such circumstances, all that the Government had done under G.O.Rt.No.569, dated 23.09.2016, is only to direct the petitioner to report to the Engineer-in-Chief for appropriate posting orders. The petitioner was not even aware where she was going to be posted. The cancellation of her previous repatriation order, as a consequence of the cancellation of the 3rd respondent's deputation, did not actually result in any order posting the petitioner to any particular place, so as to give rise to a cause of action for her to complain, unless she was very particular about going to Anantapur. Therefore, the dismissal of the original application by the Tribunal was perfectly in order and we see no reason to interfere with the same. Hence, the Writ Petition is dismissed. As soon as the petitioner reports before the Engineer-in-Chief, as per the Government Order impugned, she shall be given a posting order.

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

V. RAMASUBRAMANIAN, J

G. SHYAM PRASAD, J

10th November, 2016
cbs



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