

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.1603 OF 2017

DATED : 20.01.2017

Between :

Mrs.P.Vijaya W/o.B.Krishnarjun,
47 yrs, Mandal Parishad Development Officer,
MPP, Yerrupalem(M), Khammam District,
R/o.H.No.4-1-562, Rotary nagar, Khammam,
Khammam District.

.. Petitioner

And

The State of Telangana,
Rep., by its Chief Secretary to Government & Special
Chief Secretary to Government (FAC),
Panchayat Raj & Rural Development (Pts. VII)
Department, Secretariat Buildings,
Hyderabad, Telangana & others

.. Respondents



This court made the following :

THE HON'BLE SRI JUSTICE P.NAVEEN RAO**WRIT PETITION No.1603 OF 2017****ORDER :**

Petitioner is working as Mandal Parishad Development Officer. By the order impugned petitioner is transferred from Yerrupalem Mandal, Khammam District and posted to Vajedu of Jayashankar District.

2. Petitioner challenges the order of transfer on the ground that her husband is working as School Assistant in Zilla Parishad Secondary School at Peddavenkatagiri in Khammam Rural Mandal. Because of the posting of her husband at the said place, she was transferred to Yerrupalem Mandal on 09.12.2013. Therefore, petitioner could not have been transferred away from the place of posting of her husband. It is also contended that the transfer order refers to some note of the Minister concerned and therefore, transfer is not made in bonafide exercise of power and is vitiated on the ground of political interference. It is further contended that the order holds that petitioner is not entitled to TTA or joining time. Since the transfer is not on the request of the petitioner, petitioner can not be denied TTA and joining time and on that ground alone, the order is liable to be set aside.

3. It is not in dispute that the Government is competent to transfer the petitioner and petitioner is working in transferable post. The present order of transfer is not in violation of the service conditions.

4. Transfer is an incidence of service. Wherever, the employee is transferred, he has to work at the place of posting. It is for the employer to organize his work force as per the requirements of the organization. It is for the employer to decide as to who should be transferred and where. Court cannot mandate to make transfers in a particular manner. Petitioner agitates against her transfer on the ground that she was picked out contrary to Government policy and as a measure of punishment.

5. In matters of transfer ordinarily the scope of interference by writ Court under Article 226 of the Constitution of India is very limited. It is only in cases where transfer is vitiated on account of, *mala fide* exercise of power; results in altering service conditions; and is contrary to rules/regulations governing the service; Court can interfere. In cases of grave hardship on sudden transfer due to special circumstances, in a given case, the writ Court can exercise equity jurisdiction to grant appropriate relief. The case on hand does not present any extra-ordinary circumstance warranting this Court to exercise its equity jurisdiction. Petitioner alleges that by way of penalty/punishment she is transferred. A bare reading of the order, the same is not discernible. An order can be termed as punitive only if it expressly states and therefore casts stigma. In the facts of this case, it cannot be said that transfer was made in arbitrary or discriminatory manner. I do not see any illegality and irregularity in the order of transfer warranting interference of this Court.

6. However, it is open to petitioner to represent to Government if she has any grievance with reference to the domestic problems, for retention at the same place. If any

representation is already submitted or to be submitted by the petitioner, the same shall be considered by the competent authority. However, no direction can be issued for retention of petitioner at present place pending consideration of the representation and it is for the employer to take a decision.

7. The further submission is that the petitioner could not have been denied TTA & joining time. On this contention the matter was adjourned to enable the learned Government Pleader to obtain instructions as to why the TTA and joining time are denied to the petitioner.

8. Learned Government Pleader for Service, on instructions, submits that erroneously such clause was incorporated and petitioner would be given all the benefits of administrative transfer. Thus, this impediment is also removed now.

9. It is also settled principle of law that the public representative can always represent for transfer of an employee and therefore, merely because there was note of the minister, it cannot be said that the transfer is vitiated on that ground. A further reading of the order would clearly show that the order does not attribute anything against the petitioner. It is not an order passed castigating the petitioner of performance of her duties and responsibilities. Therefore, is not a stigmatic order.

10. Therefore, no justification is made out to interfere against the order of transfer and the same is accordingly dismissed. However, petitioner shall be paid TTA and also be

granted joining time as is normally applicable to the transfer made on administrative grounds. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

20th January, 2017
Rds

P.NAVEEN RAO,J

