

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

AND

HON'BLE SRI JUSTICE G.SHYAM PRASAD

WRIT PETITION No.25343 of 2017

Date:01.8.2017

**Between:**

K.Shishna,

W/o G.Krishnamurthy

and seven others.

..... Petitioners

**And:**

District Educational Officer,

Anantapur District and three others.

.....Respondents

Counsel for the petitioners: Mr. P.V.Krishnaiah

Counsel for the respondents: GP for Services-I (AP)

The Court made the following:

ORDER: *(per Hon'ble Sri Justice C.V.Nagarjuna Reddy)*

This Writ Petition is filed by certain Secondary Grade teachers working in Anantapur District feeling aggrieved by order, dated 28.7.2017, passed by the Andhra Pradesh Administrative Tribunal at Hyderabad (for short 'the Tribunal') in Original Application No.2204 of 2017, whereby notice before admission returnable in two weeks was issued on the request made by them for granting interim relief.

The petitioners have earlier filed O.A.No.1721 of 2017 and batch seeking to declare the inaction of the respondents in considering their cases for transfer under the preferential category of spouse quota, in terms of G.O.Ms.No.32, School Education (Ser.II) Department, dated 04.6.2017, as amended by G.O.Ms.No.38, School Education (Services.II) Department, dated 21.6.2017, as illegal, arbitrary and discriminatory. In the said batch of O.As., the petitioners have relied upon the letter, vide Rc.No.127/B/Estt/2017, dated 21.6.2017, of the Project Director, District Water Management Agency, Anantapur addressed to respondent No.1, requesting the latter to consider the cases of the petitioners who are the spouses of the persons working as Fixed Tenure Employees (FTEs) in the District Water Management Agency falling within his jurisdiction. During the hearing of the said O.As., the learned Government Pleader for

School Education (Services), on oral instructions, reported before the Tribunal that though on previous occasion, the District Educational Officer considered the cases of the teachers, whose spouses are working as FTEs, for transfer on humanitarian grounds, but, as per the Rules, the petitioners are not entitled to be considered under the preferential category of spouse quota as, their spouses are working only as FTEs in the District Water Management Agency and not as permanent employees in the said Government Department. The Tribunal, however, without dealing with the said issue disposed of the said batch of O.As by common order, dated 07.7.2017, with the following observations:

“The Project Director, District Water Management Agency, through proceedings Rc.No.127/Estt/2017, dated 21.6.2017, requested the District Educational Officer, Anantapuram to consider the case of the applicants by giving preference under spouse category as it was considered earlier and no orders are passed by the DEO so far. In view of considering the case of teachers whose spouses are working in District Water Management Agency earlier and as it is not denied by the respondents, the DEO, Anantapuram i.e., 1<sup>st</sup> respondent is directed to consider the letter sent by the Project Director, District Water Management Agency and allow the applicants to participate in the transfer counselling under preferential category of spouse quota.”

Purporting to implement the said order of the Tribunal, respondent No.1 has issued proceedings, vide Rc.No.1SPL/B1/B2/

A3/A5/C6/2017, dated 10.7.2017, rejecting the request of the petitioners to consider their cases in terms of Sub-rule-(iii) of Rule-7 of G.O.Ms.No.32, dated 04.6.2017 and also of G.O.Ms.No.38, dated 21.6.2017, on the ground that their spouses are working as FTEs. Respondent No.1, however, did not hold that FTEs do not fall within the category of spouses who belong to the State or Central Government Undertaking or Local body. Be that as it may, this order was challenged by the petitioners in O.A.No.2204 of 2017, wherein, as observed hereinbefore, the Tribunal has issued notice before admission returnable in two weeks.

Mr. P.V.Krishnaiah, the learned counsel for the petitioners, submitted that the Tribunal having allowed the previous batch of O.As filed by the petitioners, and directed respondent No.1 to consider the letter addressed by the Project Director, District Water Management Agency to him, and allowed the petitioners to participate in the transfer counselling under the preferential category of spouses quota, ought to have protected the interests of the petitioners from being transferred, by giving the benefit of the afore-mentioned two GOs., till appropriate orders are passed in the said O.A.

After hearing the learned Government Pleader for Services-I (Andhra Pradesh), we feel that the petitioners have

made out a *prima facie* case for interim protection in the wake of the order secured by them in the previous batch of O.As.

The questions before the Tribunal in the pending O.A. are (i) whether the common order, dated 07.7.2017, passed in O.A.No.1721 of 2017 and batch contained a mandatory provision giving no scope for respondent No.1 to reject the claim of the petitioners for being treated under the preferential category of spouse quota? and (ii) whether rejection of the cases of the petitioners for transfer on merits, by not treating their spouses as belonging to State Government, etc., is correct or not? These questions need to be adjudicated in the said O.A.

In the aforesaid circumstances, we feel that the petitioners are entitled to interim protection at least till their prayer for interim relief is considered by the Tribunal after hearing both sides.

In this view of the matter, the Writ Petition is disposed of, directing that till the interim relief claimed by the petitioners is considered and disposed of by the Tribunal, after hearing both sides, the petitioners shall not be disturbed from their present places of working. The Tribunal shall dispose of the petitioners' prayer for the interim relief, after hearing both sides, as expeditiously as possible.



As a sequel to disposal of the Writ Petition, WPMP.No.31419 of 2017 filed by the petitioners for interim relief is disposed of as infructuous.

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*JUSTICE C.V.NAGARJUNA REDDY*

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*JUSTICE G.SHYAM PRASAD*

*01<sup>st</sup> August 2017*

*DR*

