

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

WRIT APPEAL No.1045 OF 2015

ORDER: (per Hon'ble the Acting Chief Justice Ramesh Ranganathan)

Heard Sri G. Vidyasagar, Learned Senior Counsel appearing on behalf of the appellant and Sri A.K. Jayaprakash Rao, Learned Counsel for the respondent-writ petitioner and, with their consent, the appeal is disposed of.

This appeal, under Clause 15 of the Letters Patent, is preferred against the order passed by the Learned Single Judge in W.P. No.34544 of 2015 dated 28.10.2015. Parties shall, hereinafter, be referred to as they are arrayed in the Writ Petition. Petitioners 1 to 3 are Head Constables, and petitioners 4 to 6 are Security Guards. They invoked the jurisdiction of this Court aggrieved by the order of transfer dated 09.10.2015.

The Learned Single Judge, by his order in W.P. No.34544 of 2015 dated 28.10.2015, set aside the order of transfer, and directed the appellant-Corporation to continue the petitioner in their respective stations during the current academic year. Aggrieved thereby, the Telangana State Road Transport Corporation preferred an appeal. The Division bench of this Court, by its order in W.A.M.P. No.2793 of 2015 dated 08.12.2015, granted interim suspension in so far as petitioners 1 to 3 were concerned and made it clear that, in so far as petitioners 4 to 6 were concerned, the order would not preclude the authorities to transfer them within the region, pending further orders. Consequently, the appellant herein passed revised orders of transfer on 04.01.2016. It is not in dispute that, pursuant thereto, respondents 4 to 6 joined at

the new stations. Petitioners 1 to 3 also joined at the new stations in the first week of January, 2016.

While the order of the Learned Single Judge, interdicting the orders of transfer is subjected to challenge on several grounds, it is unnecessary for us to examine the validity of the orders of transfer as the order under appeal merely required the order of transfer not to be implemented during the academic year 2015-16 which expired by April, 2016.

Sri A.K. Jayaprakash Rao, Learned Counsel for the respondent-petitioners, would however contend that the petitioners have not been paid salary till they joined at the new place of posting, despite the Writ Petition having been allowed by the Learned Single Judge by his order dated 28.10.2015. In so far as petitioners 4 to 6 are concerned, in the light of the liberty granted by the Division bench in its interim order dated 08.12.2015, the appellant-corporation issued revised orders of transfer on 04.01.2016, which would imply that the earlier orders of transfer stood rescinded. The appellant corporation is therefore liable to pay petitioners 4 to 6 salary for the period from 28.10.2016 (when the Writ Petition was allowed) till they joined duty pursuant to the revised orders of transfer dated 04.01.2016.

The case of petitioners 1 to 3 however stands on a different footing. While it is no doubt true that the Writ Petition was allowed even with respect to petitioners 1 to 3, the order of the Learned Single Judge dated 28.10.2015 was suspended by the Division bench by its order dated 08.12.2015. Consequently the order of the Learned Single Judge did not remain in force, and the order of transfer passed earlier stood revived. Sri A.K. Jayaprakash Rao, Learned Counsel for the

respondent-writ petitioners, would submit, not without justification, that the Division bench, while passing the interim order of suspension, had also permitted respondents 1 to 3 to join duty at the transferred place within a week from the date of the order. The fact however remains that the one week grace period granted by the Division bench expired on 15.12.2015 before which date the petitioners did not join duty at their new place of posting. It is only because petitioners 1 to 3 also joined at the new place of posting in January, 2016 that they claim payment of salary during the period from 28.10.2015 till they joined duty in the first week of January, 2016.

While Sri A.K. Jayaprakash Rao, Learned Counsel for the respondent-writ petitioners, would contend that the petitioners were kept away from duty, Sri G. Vidyasagar, Learned Senior Counsel, would submit that, since they did not join at the transferred place, they were not entitled for salary during the said period. While no mandamus can be issued to the appellant-corporation to pay them salary for the period from 28.10.2015, till they joined duty at the new station, we have no reason to doubt that, on a request being made by petitioners 1 to 3 in this regard, the appellant-corporation would consider their request sympathetically including, if need be, by adjusting the period of their absence against leave, if any, to which they are entitled to.

The Writ Appeal is disposed of accordingly. The miscellaneous petitions pending, if any, shall stand closed. No costs.

RAMESH RANGANATHAN, ACJ

Date: 15.02.2017

Dr. SHAMEEM AKTHER, J