

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

AND

THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

WRIT PETITION No. 30316 OF 2017

DATED 08TH SEPTEMBER, 2017

Between:

V.Raja Sekhar Reddy

... Petitioner

AND

The State of Andhra Pradesh,
Rep. by its Principal Secretary,
Health, Medical & Family Welfare Department,
A.P. Secretariat, Velgapudi,
Amaravathi, Guntur District, and others

... Respondents

Counsel for the petitioner

:

Sri K.R.Srinivas

Counsel for respondent Nos. 1 to 4

:

G.P. for Services (A.P.)

Counsel for respondent No. 5

:

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THE COURT MADE THE FOLLOWING

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

This Writ Petition is filed feeling aggrieved by order dated 29-08-2017 in O.A.No. 2490 of 2017 on the file of the Andhra Pradesh Administrative Tribunal at Hyderabad (for short, 'the Tribunal).

2. We have heard Sri K.R.Srinivas, learned counsel for the petitioner, and perused the record.

3. The petitioner is working as Health Education Officer in the office of Additional District Medical & Health Officer (A & L), Visakhapatnam – respondent No. 3. After being allowed to work for five years at Visakhapatnam, he was transferred to the adjacent district *i.e.* Vizianagaram by the Director of Public Health & Family Welfare, Andhra Pradesh – respondent No. 2 *vide* his proceedings dated 03-06-2017. However, he was relieved only on 22-08-2017. Assailing his transfer order, the petitioner filed the abovementioned O.A. before the Tribunal. In the O.A., the petitioner mainly raised two contentions before the Tribunal, namely; (1) that the transfer was made after expiry of the relaxation period of ban on transfers and (2) that several other similarly situated persons in other districts have not been disturbed though they have also completed more than five years of service.

4. As regards the first mentioned plea of the petitioner, the Tribunal has held that relaxation of ban on transfers has ended on 05-06-2017 whereas the petitioner was transferred by proceedings *vide* Rc.No. 2378/E5.B/2017-1 dated 03-06-2017 *i.e.* two days before the ban was re-imposed. The Tribunal found that despite the transfer order dated 03-06-2017, the office of respondent No. 3 did not relieve the petitioner on the ground that clerical staff of that office did not notice the petitioner's transfer order in website and that when respondent No. 2

called for explanation of the District Medical & Health Officer, Visakhapatnam and respondent No. 3 in C.No. 2568/E5.B/2017 dated 09-08-2017 for not relieving the petitioner, the latter relieved the petitioner on 22-08-2017. The Tribunal has therefore rejected the said plea of the petitioner on the abovementioned grounds. As regards the second noted plea of the petitioner, the Tribunal has held that the mere fact that other similarly situated employees have not been disturbed even after completion of five years does not confer a right on the petitioner to question the transfer.

5. It is trite that transfer is not only an incidence but also an inevitable condition of a service. Ordinarily, Courts are loath to interfere with transfer orders unless such orders are passed *mala fide* or by an authority who is not competent to transfer the employee. In the instant case, the petitioner has not raised either of these two grounds. Admittedly, the petitioner has completed his full term of five years, thereby rendered himself liable for transfer from Visakhapatnam. This being so, we failed to see any reason as to how he has felt aggrieved by his transfer and that too to the place which is the nearest place to Visakhapatnam from which he has been transferred. The Tribunal found that Vizianagaram is the neighbouring district situated just 40 kilometers away from Visakhapatnam and that therefore there could be no conceivable reason for the petitioner to question the transfer order. Though the learned counsel for the petitioner disputed the findings of the Tribunal that his client was transferred during the subsistence of relaxation of ban, we are however not interested in dealing with this aspect for the reason that when the petitioner cannot have any legitimate grievance about his transfer, he is not entitled to raise this issue. Even otherwise, we are of the opinion that transfer guidelines are administrative in nature and no employee has a right to seek enforcement of such guidelines.

6. As regards the second submission namely that several other similarly situated employees in other districts are retained, the law is well settled that a person is not entitled to claim a relief based on negative equality. If some employees are not being transferred, that does not cloth the petitioner with the right to insist that he should also be allowed to be retained at the same place even after completing his full term. The petitioner being a public servant, transfer is inherent in his service. In the absence of any *mala fides* attributed to the respondents, the petitioner cannot question such transfer, more so when the transferred place is the nearest possible place from his previous place of working. In our opinion, the petitioner has displayed unreasonable conduct in indulging in vexatious litigation by questioning his transfer before the Tribunal on jejune grounds. At least when the Tribunal has rejected his claim, he is expected to graciously accept the verdict. Instead, he has continued the frivolous litigation by filing this Writ Petition. From the fact that he is insisting to stay at Visakhapatnam, it is reasonable to presume that the petitioner has some vested interest at that place.

7. For the aforementioned reasons, the Writ Petition is dismissed with costs of Rs.10,000/-. The fact of imposition of costs on the petitioner must be entered in his service record.

8. As a sequel to dismissal of the Writ Petition, W.P.M.P.No. 37789 of 2017 shall stand dismissed as infructuous.

C.V.NAGARJUNA REDDY, J.

Date: 08-09-2017.

JSK

GUDISEVA SHYAM PRASAD, J.