

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

The Hon'ble Sri Justice V. RAMASUBRAMANIAN
and
The Hon'ble Sri Justice M. GANGA RAO

WRIT PETITION No.36079 OF 2017

Between:

T. Haribabu S/o.Doraswamy,
Aged about 45 years, Occ: Mandal Surveyor,
(under order of deputation), Penumur Mandal,
Chittoor District R/o.Bangarupalem Village & Mandal,
Chittoor District.

...Petitioner

Vs.

State of Andhra Pradesh,
Revenue Department (Survey & Land Records)
Secretariat Building, Velagapudi, Amaravathi,
Guntur District, Rep. by its Principal Secretary and others.

.. Respondents

For Petitioners : Sri K. Bheema Rao

For Respondents : Government Pleader for Services –I
(TG)



HON' BLE SRI JUSTICE V. RAMASUBRAMANIAN
AND
HON' BLE SRI JUSTICE M. GANGA RAO

WRIT PETITION No.36079 OF 2017

ORDER: (per V. Ramasubramanian, J)

Aggrieved by the dismissal of his application by the Andhra Pradesh Administrative Tribunal, a Mandal Surveyor has come up with the above writ petition.

2. Heard Mr. K. Bheema Rao, learned counsel for the petitioner.

3. By the proceedings of the Joint Collector dated 07.09.2017, the petitioner, who was working in the office of the Tahsildar, Penumur, was transferred to the office of the Tahsildar, Peddathippasamudram, in the existing vacancy. Challenging the said order on the ground of lack of jurisdiction on the part of the Joint Collector, the petitioner filed O.A No.2780 of 2017. The Tribunal dismissed the same by an order dated 09.10.2017, forcing the petitioner to come up with the above writ petition.

4. The main grievance of the petitioner is that the order of deputation/ transfer was by an incompetent authority and that it is only the Regional Deputy Director of Survey and Land Records, who is entitled to transfer a Mandal Surveyor from one place to another.

5. Despite the fact that the competency of the Joint Collector was the only issue raised in the Original Application, the petitioner did not bring to the attention of the Tribunal any specific Rule that empowered only the Regional Deputy Director to pass orders of transfer. Even before us, no rule is cited, which empowers only the Regional Deputy Director to pass orders of deputation/ transfer.

6. However, Mr. K. Bheema Rao, learned counsel for the petitioner drew our attention to Rule – 3 of the Andhra Pradesh Survey

and Land Records Subordinate Service Rules to show that the Director of Survey, Settlement and Land Records is the appointing authority for the post of Surveyor. The learned counsel also drew our attention to the proceedings of the Commissioner of Survey and Land Records dated 07.06.2011, by which the powers to conduct counseling of employees at the time of transfer was delegated to the Regional Deputy Director. In the case of the petitioner, he was posted to the present station only by an order passed by the Regional Deputy Director. Therefore, the contention of the learned counsel for the petitioner is that by virtue of Rule-3 of the Subordinate Rules, read with the delegation of powers and the past experience, it is only the Regional Deputy Director who is competent to pass orders of transfer.

7. But, we do not agree. In the table under Rule – 3 of the Andhra Pradesh Survey and Land Records Subordinate Service Rules, the classes, categories and designations of certain posts included in the service with the method of appointment as well as the appointing authority are noted against each of those posts, in columns 2 and 3 of the table. The post of Surveyor is in category-3 of Class-A of the service. The appointing authority for the post of Surveyor is indicated in column No.3 of the table under Rule – 3 as the Director of Survey and Settlements and Land Records. Therefore, the only inference that may be drawn is that the appointing authority for the post of Surveyor is the Director. It does not automatically lead to the conclusion that the power to transfer also vested only with the Director. There is no law which mandates that transfer of a Government Servant cannot be ordered by an authority subordinate to the appointing authority. Under Article 311 of the Constitution of India, the only bar for an authority subordinate to the appointing authority is to impose the penalties of

dismissal, removal from service and reduction in rank. In respect of all other matters, such a bar is not there. As a matter of fact, Rule-11 of the very same Subordinate Rules, speaks about the units of appointments in relation to all the categories of posts, for the purpose of recruitment, appointment, seniority, promotion, transfer and appointment as a full member. In the table under Rule-11, there is an indication of the unit of appointment for the post of Surveyor. It is stated in the table under Rule-11 that for the post of Surveyor, the State is divided into six zones, with each zone having certain named Districts.

8. It is not the case of the petitioner that he is transferred or sent on deputation, from one zone to another or from one District to another. Therefore, the Joint Collector being the Administrative Head of the unit, is certainly entitled to pass the order impugned in the Original Application.

9. It is true that for the purpose of conduct of counselling, the Director delegated his powers to the Regional Deputy Director. Pursuant to such delegation, the Regional Deputy Director also conducted counselling on the previous occasion. This does not mean that the powers of the Unit Heads were taken away by such proceedings. Therefore, we find no justification to interfere with the order of the Tribunal.

10. Hence, the Writ Petition is dismissed. As a sequel thereto, miscellaneous petitions, if any, pending shall stand dismissed. No order as to costs.

V. RAMASUBRAMANIAN, J

M. GANGA RAO, J

October 31, 2017

KTL