

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 APPEAL Nos.1721 AND 1722 OF 2017

Date: 21.11.2017

W.A. No.1721 of 2017:

Between:

The Jawaharlal Nehru Technological University,
Hyderabad, rep. by its Registrar Dr.N.Yadaiah,
S/o.Late N. Durgaiah, aged about 52 years,
Occ: Registrar, JNTU-H, C/o.JNTU Quarters,
JNTU, Kukatpally and others.

...Appellants

Vs.

R. Lakshaman, S/o.Tirupathi,
aged about 54 years, Occ: Dy. Executive
Engineer, Engineering Department of
Jawaharlal Nehru Technological University,
Hyderabad.

...Respondent

AND

W.A. No.1722 of 2017:

The Jawaharlal Nehru Technological University,
Hyderabad, rep. by its Registrar Dr.N.Yadaiah,
S/o.Late N. Durgaiah, aged about 52 years,
Occ: Registrar, JNTU-H, C/o.JNTU Quarters,
JNTU, Kukatpally and others.

...Appellants

Vs.

R. Lakshaman, S/o.Tirupathi,
aged about 54 years, Occ: Dy. Executive
Engineer, Engineering Department of
Jawaharlal Nehru Technological University,
Hyderabad.

...Respondent

For Appellants : Sri V. Ramchander Goud

For Respondents : Sr. M. Rajamalla Reddy

HON' BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

HON' BLE SRI JUSTICE M. GANGA RAO

WRIT APPEAL Nos. 1721 AND 1722 OF 2017

COMMON JUDGMENT: (per V. Ramasubramanian, J)

Aggrieved by two interim orders granted by the learned single Judge, staying an order of transfer and directing the continuance of the respondent (Writ Petitioner) in the same place, the University has come up with the above two appeals.

2. Heard Mr. V. Ramchander Goud, learned counsel appearing for the appellants and Mr. M. Rajmalla Reddy, learned counsel appearing for the respondent.

3. By the proceedings, dated 11.09.2017, the respondent who was working at Hyderabad, was transferred to Manthani. Challenging the said order, on medical grounds, the respondent filed a writ petition in WP No.31895 of 2017. The said writ petition was disposed of by a learned single Judge by order, dated 21.09.2017, with a direction to the University to consider the representation of the respondent and to pass orders. There was also a further direction to the University not to give effect to the order of transfer dated 11.09.2017, until the representation was disposed of. Pursuant to the said order, the University passed an order dated 10.10.2017, giving reasons as to why the request of the respondent to be retained at the same time could not be accepted.

4. Challenging the said order, dated 10.10.2017, the respondent filed a fresh writ petition in WP No.34684 of 2017, along with two miscellaneous applications, one for suspension of the order dated

10.10.2017 and another for interim direction to continue him at Sultanpur itself.

5. On 16.10.2017, a learned single Judge of this Court, while directing the counsel for the University to take notice, granted an interim direction as well as interim suspension. Hence, the University, aggrieved by the said orders, has come up with the above appeals.

6. The main ground on which the learned Judge granted interim suspension of the order dated 10.10.2017 and an interim direction as prayed for, was that the University has not even adverted to the request of the respondent for retention in Sultanpur village. But, the contention of the University is that the infrastructural works in Phase-I and Phase-II at Sultanpur were already completed in December 2016 and March 2017, and that only the work of maintenance of the building is with them. But at Manthani, the work of academic block and other buildings is in progress and that therefore, the transfer was inevitable.

7. The grievance of the respondent is that he has been suffering from two different types of ailments, namely, (1) Cerebrovascular Attack and (2) Cardio Vascular Attack. The respondent has furnished medical certificates of April 2017 and October 2017. Therefore, the contention of the learned counsel for the respondent is that despite a positive direction from this Court to consider the health condition of the respondent and to pass orders, the University failed to take into account the ill health of the respondent before passing the order dated 10.10.2017.

8. We have carefully considered the above.

9. It is needless to point out that an order of transfer can be interfered only on two grounds, namely, (a) malafidies and (b) violation

of statutory rules. The respondent herein assailed the order of transfer not on any of these two grounds, but on the ground of ill health.

10. But, unfortunately, for the respondent, the medical certificate relied upon by him dated 14.10.2017, does not show the period of the ailment suffered by the respondent. If the respondent has been suffering from a stroke, as is claimed, he must have taken treatment as an inpatient at least for a day in the hospital. That does not appear to be the case.

11. On the contrary, a representation given by the respondent on 14.09.2017 would show that the respondent suffered brain stroke way back in March 2016. But, it is on record that the respondent went on leave to United States of America in May and June 2016 to visit his son.

12. If we take into account the aforesaid record, we do not think that this is a case where an interim direction as prayed for, could have been granted. We are not pronouncing an opinion on the health condition of the respondent. But, the claim made by him does not even inspire the confidence of this Court with the available certificates on record. Therefore, the learned Judge was not right in granting an *ex parte* interim direction and interim suspension.

13. Hence, the writ appeals are allowed and the impugned orders are set aside. The Miscellaneous Petitions can be pursued, after the respondent files a counter affidavit and the arguments of both sides are heard by the learned single Judge. It is made clear that if the respondent reports at the transferred place, within a week on receipt of a copy of this order, the University shall release his salary payable to him, for the period up to which he continued in the old place by virtue of the interim order granted by the learned single Judge.

14. As a sequel thereto, miscellaneous petitions, if any, pending shall stand dismissed. No order as to costs.

V. RAMASUBRAMANIAN, J

M. GANGA RAO, J

November 21, 2017
KTL

