

HON' BLE SRI JUSTICE SURESH KUMAR KAIT
&
HON' BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P. No. 2824 of 2018

O R D E R:- (ORAL)

(Per Hon' ble Sri Justice Suresh Kumar Kait)

This writ petition is filed seeking to declare the order of transfer issued by the 1st respondent-Government in G.O.Rt.No. 822, dated 26.12.2017 as void and set aside the order dated 24.01.2018 in O.A.No. 3536 of 2017 passed by the A.P. Administrative Tribunal, Hyderabad, whereby the application filed by the petitioner challenging the transfer order dated 26.12.2017, was dismissed.

The learned counsel for the petitioner submits that earlier the petitioner had undergone bypass surgery and suffered from Coronary Artery Disease, Post CAVE EACCS-ii, Hyponatremia and Hyper Kolemia, Type-II Diabetes Millets and Hyper Tension. At present, he is suffering from Neuro problem and is undergoing treatment in Asha Kiran Hospital, Kurnool, and therefore, he is eligible to be retained at Kurnool only in terms of G.O.Ms.No. 102, dated 10.06.2016. The transfer order dated 26.12.2017 is in violation of the transfer guidelines issued by the Government vide G.O.Ms.No. 64 Finance (HR.I.PLG. & Policy) Department dated 21.04.2017.

It is not in dispute that within 15 months from the impugned transfer order, the petitioner was transferred from Visakhapatnam to Kurnool at his request on medical grounds. It is also not in dispute that after coming to Kurnool, he has not been given the posting, however he is working on *ad hoc* basis.

It is not the case of the petitioner that the impugned transfer order was issued by an incompetent authority or was in violation of any mandatory statutory rule or it was issued *malafidely*. The transfer order is challenged by the petitioner only on the ground that the 1st respondent issued the transfer order in violation of transfer guidelines issued in G.O.Ms.No. 64, dated 21.04.2017 and G.O.Ms.No. 102, dated 10.06.2016. The transfer guidelines issued by the Government have no force of law in view of the principle laid down by the Supreme Court in catena of cases whereby time and gain it is reminded that the transfer order is not to be taken under judicial review.

The Tribunal, in view of the fact that the transfer order cannot be taken under judicial review, dismissed the O.A. filed by the petitioner. Therefore, the finding recorded by the Tribunal is perfectly justified and does not warrant any interference by this Court.

The learned counsel for the petitioner submits that the petitioner has some medical problem. However, it cannot be disputed that the station i.e. Vijawayada where the petitioner is now posted, has better medical facilities than Kurnool where he was earlier posted.

For the foregoing reasons, we do not find any merit in the writ petition, and the same is accordingly, dismissed. No order as to costs.

As a sequel, Miscellaneous Petitions, if any pending, shall stand disposed of as infructuous.

31.01.2018

bcj

SURESH KUMAR KAIT, J

ABHINAND KUMAR SHAVILI, J

