

**HON'BLE SRI JUSTICE SANJAY KUMAR
AND
HON'BLE SRI JUSTICE M.GANGA RAO**

WRIT PETITION No. 6786 OF 2018

ORDER: *(Per Hon'ble Sri Justice M.Ganga Rao)*

The order dated 25.01.2018 passed by the Andhra Pradesh Administrative Tribunal (for short 'the Tribunal'), dismissing the O.A.No.98 of 2018, is challenged in this writ petition. The proceedings under challenge before the Tribunal was R.C.No.473/E2/2017, dated 04.06.2017, wherein and whereby the petitioner was transferred from the Office of the Regional Training Centre (Male), Visakhapatnam to the Primary Health Centre, Killoguda, Visakhapatnam District.

2. The petitioner has been working as Junior Assistant at Regional Training Centre (Male), Visakhapatnam since 19.11.2004. The Government has issued G.O.Ms.No.64, Finance (HR.I.PLG.&Policy), Department, dated 21.04.2017, for effecting transfers to the employees in the State and also issued transfer guidelines. However, some departments which have unique operational systems were exempted from the guidelines issued in G.O.Ms.No.64 and thereby the Medical and Health Department was also exempted. The Medical and Health Department has issued G.O.Rt.No.318, Health, Medical and Family Welfare (B1) Department, dated 06.05.2017, framing separate guidelines for effecting transfer

of the employees working in Medical and Health Department and constituted a Committee to effect transfer to the District cadre posts. The District Collector is the Chairman, the District Medical and Health Officer is a Member/Convener and the District Coordinator of the Hospital Services is another Member of the Committee. The District Medical and Health Officer, Visakhapatnam, prepared a seniority list of different cadre posts including Junior Assistants, as per the transfer guidelines. In the seniority list, the petitioner's name stands at Serial No.3 and the date of counseling was fixed as 01.06.2017. In the counseling, Sri R.Radha Krishna, Junior Assistant, Primary Health Centre, Killoguda, has chosen the vacancy at the Regional Training Centre (Male), Visakhapatnam. The petitioner has not participated in the said counseling. The petitioner was transferred to resultant vacancy at Primary Health Centre, Killoguda. The petitioner submitted a representation to consider her request on medical grounds to retain her in the old station i.e., the Regional Training Centre (Male), Visakhapatnam, in another existing vacancy. The petitioner's representation was forwarded to the Director of Public Health and Family Welfare, A.P., Vijayawada and in turn, the representation was sent to the Principal Secretary to the Government. The petitioner's request was considered, found not feasible and rejected.

3. As per the guidelines issued in G.O.Rt.No.318, the employees who are suffering from the diseases viz., Cancer, Open heart operations, Neuro surgical operations, Kidney transplantation, can be transferred on medical grounds to places where such facilities are available. But, the petitioner is taking treatment for Prolapse inter vertebral disc L4-L5 with canal stenosis with Radiculopathy and the same is not covered under the diseases enumerated in the aforesaid G.O. Hence, the petitioner's case was considered for retention at the same place by the Principal Secretary to the Government and rejected.

4. The transfer is not only an incident but a condition of service. In the case of **Venkateswarlu Gadde Vs. Union of India**¹, the Division Bench of this Court, following the decision of the Hon'ble Apex Court, held that *the Government servant holding transferable post has no vested right to remain posted at one place and whenever transferred, must comply with order, failing which, he would expose himself to disciplinary action under relevant service rules. He would not be justified in avoiding or evading transfer order merely on ground of having made a representation, or on ground of his difficulty in moving from one place to the other. The transfer orders, issued by competent authority, do not violate any of his legal rights. Hence, transfer of public servant, when on*

¹ 2017(1) ALD 609 (DB)

administrative grounds or in public interest, Court should not ordinarily, interfere with order of transfer, unless it is vitiated by mala fides or is made in violation of any operative guidelines or rules. Personal difficulties of employee are matters for consideration of department, and not the Court.

5. The Tribunal has rightly dismissed the O.A. stating that the petitioner had stayed nearly 10 years continuously at the present place of work. Rejection of the petitioner's request for retention at Visakhapatnam cannot be said to be improper or illegal. Therefore, in our considered view, there is no illegality or irregularity in transferring the petitioner from Visakhapatnam to Killoguda and rejection of her request for transfer and upholding the same by the Tribunal could not be found fault with.

6. Accordingly, the Writ Petition is dismissed. No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order.

SANJAY KUMAR, J

M.GANGA RAO, J

Date: 27.04.2018
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April 27, 2018

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