

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

W.V.M.P.No.2949 of 2017 in/and W.P.No.21351 of 2017

ORDER:

Heard the learned counsel for the petitioner and Sri N.Siva Reddy, learned counsel appearing for respondent Nos.2 and 3.

2. Petitioner has filed this Writ Petition assailing the order dt.24-06-2017 issued by 3rd respondent transferring the petitioner who was working as Assistant Engineer at “Outdoor-DS-Ongole” to Karamchedu.

3. Petitioner contends that 4th respondent had made a request for posting in the place where the petitioner was working and though there is no similar request from petitioner, just to accommodate 4th respondent at Ongole, petitioner has now been transferred.

4. Learned counsel for the petitioner contends that the petitioner had been working at Ongole since 2013, that he had not yet completed five years at the said place, that his name was not even placed in the revised list of persons prepared for making transfers on administrative grounds, but to accommodate 4th respondent, who had made a request for posting in the petitioner’s post at Ongole, the petitioner was transferred falsely indicating that such transfer of the petitioner was on “administrative grounds”.

5. He further contends that employees who are transferred on “administrative grounds” were placed in the revision list, but petitioner’s name was not there in it and he was transferred from a non-focal post to focal post at Karamchedu Operation Section.

6. He also contends that as per the guidelines issued by 3rd respondent in Memo No.CMD/CGM (HRD)/JS (HRD)/DGM-1/PO-II/A.1/D.No.500/17 dt.18-05-2017, employees who have completed five years of service in all cadets in the present station as on 31-05-2017 have to be transferred for transfer to a different station. Division to Division within the Circle/outside the Circle and in violation of these guidelines, the transfer of the petitioner has been effected.

7. On 30-06-2017, while admitting the Writ Petition, this Court had granted a stay of the impugned order dt.24-06-2017 as regards the petitioner.

8. W.V.M.P.No.2949 of 2017 is filed to vacate the said order taking the plea as mentioned supra.

9. Sri N.Siva Reddy, learned Standing Counsel for respondent Nos.2 and 3 states that there are exceptions contained in clauses 26 and 29 of the same guidelines which permit transfer of any employee at any time on administrative grounds. He therefore defends the action of 3rd respondent in effecting the transfer on the

ground that the petitioner's transfer was on administrative grounds and not to accommodate the 4th respondent.

10. Though the notice to 4th respondent has been served, there is no appearance on his behalf. Therefore, it is treated that he has nothing to say in the matter.

11. It is important to note that the impugned order dt.24-06-2017 itself mentions about transfer of persons at their request. The 4th respondent is at Sl. No.6. He was working as an Assistant Engineer at Uppugundur (NGL Padu) and at that stage, at his request, he was transferred to "Outdoor-DS-Ongole" where the petitioner was posted simultaneously transferring the petitioner allegedly on administrative grounds to Karamchedu from the said post at Ongole.

12. From the above, it is clear that only to accommodate 4th respondent at Ongole on the request of 4th respondent, 3rd respondent transferred the petitioner giving a colour of a transfer on "administrative grounds" even though the petitioner had not completed five years at Ongole. Therefore I reject the contention of the learned Standing Counsel for respondent Nos.2 and 3 that petitioner's transfer was on "administrative grounds" alone.

13. Therefore, the impugned order effecting petitioner's transfer from Ongole to Karamchedu is declared to be not one made on administrative grounds but made with an intention to accommodate

4th respondent at Ongole on 4th respondent's request, even though there is no corresponding request from the petitioner seeking transfer from Ongole to Karamchedu or any other place. There is thus clear violation of guidelines dt.18-05-2017, referred to above.

14. The impugned order, as regards the petitioner, is accordingly set aside and the respondent Nos.2 and 3 are directed to allow the petitioner to function from "Outdoor-DS-Ongole" and post the 4th respondent (said to be under suspension) in any other place. The petitioner shall be entitled to salary from 30-06-2017 till the date of his joining again at Ongole with all consequential benefits including continuity of service.

15. Accordingly, the Writ Petition is disposed of with the above directions. Consequently, W.V.M.P.No.2949 of 2017 is dismissed.

16. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 05-07-2018
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