

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

WRIT PETITION No.14868 OF 2018

ORDER: (per Hon'ble Sri Justice Sanjay Kumar)

The petitioner, who is a Multi Purpose Health Supervisor in the service of the State of Andhra Pradesh, is the unsuccessful applicant in O.A.No.368 of 2018 on the file of the Andhra Pradesh Administrative Tribunal, Hyderabad. Therein, she challenged the proceedings dated 09.01.2018, whereby the Commissioner of Health and Family Welfare, Andhra Pradesh, rejected her request to be posted at Kuturu PHC in East Godavari District on the ground that there was a ban on all transfers/deputations. She also sought a declaration that she was entitled to be posted either at Sector of Tekulaboru or Kuturu PHC in East Godavari District in the existing vacancy. By order dated 28.02.2018, the Tribunal dismissed the O.A., being of the opinion that as there was a ban on transfers imposed by the Government of Andhra Pradesh, it was not open to the petitioner/applicant to seek such a transfer.

Sri M.R.Tagore, learned counsel for the petitioner/applicant, would contend that his client is not seeking a transfer at all as she had opted for the subject location in the promotion counselling held on 18.03.2016. However, by proceedings dated 02.04.2016, the Regional Director of Medical and Health Services, Rajamahendravaram, posted her at Sector Pidipaka of PHC Kondrukota in West Godavari District. Learned counsel would state that her request to be posted at Kuturu PHC in East Godavari District was not accepted on the ground that she failed to produce a Local Scheduled Tribe Candidate Certificate. He would further state that the petitioner/applicant was already issued such a certificate as long back as

on 16.06.2014 but she did not produce the same at the time of the promotion counselling as it was not insisted upon.

Learned counsel would also draw our attention to the letter dated 03.10.2017 addressed by the Regional Director of Medical and Health Services, Zone-II, Rajamahendravaram, to the Director of Public Health and Family Welfare, Andhra Pradesh, whereby the Regional Director took note of the fact that the petitioner/applicant produced a Local Scheduled Tribe Candidate Certificate and forwarded her representation and the letter submitted by the General Secretary, APPH&ME Union, Hyderabad, for taking necessary action in the matter. Learned counsel would state that without considering the said certificate, the request of the petitioner/applicant was simply rejected on the ground that there was a ban on transfers, ignoring the fact that it was not a case of transfer. Learned counsel would further inform that the petitioner/applicant made another representation dated 19.02.2018 to the State of Andhra Pradesh, represented by its Principal Secretary, Health, Medical and Family Welfare Department, seeking re-posting orders at Sector Tekulaboru of Kuturu PHC in East Godavari District.

As the said representation is still pending consideration and we are of the opinion that the Tribunal erred in treating the case of the petitioner/applicant as one of a mere transfer, we dispose of the writ petition directing the State of Andhra Pradesh, represented by its Principal Secretary, Health, Medical and Family Welfare Department, to consider the petitioner/applicant's representation dated 19.02.2018 on its own merits and pass appropriate orders thereon in accordance with law. This exercise shall be completed expeditiously and, in any event, not later than four weeks from the date of receipt of a copy of this order. In the event

the request of the petitioner/applicant for re-posting is not accepted, the reasons therefor shall be communicated to her. Pending this exercise, the respondents shall not fill up the subject post in Sector Tekulaboru of Kuturu PHC in East Godavari District.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR,J

Date: 25.04.2018
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M. GANGA RAO, J

