

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE MS JUSTICE J.UMA DEVI

Writ Petition No.19653 of 2018

ORDER: (Per the Hon'ble the Acting Chief Justice Ramesh Ranganathan)

Rule 5(1)(a) of the Telangana Teachers (Regulation of Transfers) Rules, 2018 (for short "the 2018 Rules"), notified in G.O.Ms.No.16 dated 06.06.2018, prescribes that Head Masters/Head Mistresses, Grade-II (Gazetted), who have completed 5 years of service in a particular School as on 31st of May of the current year, shall be compulsorily transferred. Under the proviso thereto, those who are going to retire within two years, from the 31st of May of the current year, shall not be shifted until and unless the incumbent requests for such a transfer.

The petitioner is working as a Head master in Zilla Parishad High School, Thadkapally Village, Siddipet District, and seeks his retention in the said school till he retires from service. He is due to attain the age of superannuation on 04.06.2020. In terms of Rule 5(1)(a) of the 2018 Rules, if his date of superannuation is on or before 31st of May, 2020, he is required to be retained in the very same School, where he was working earlier, notwithstanding his having completed 5 years of service in that school, unless he seeks transfer elsewhere.

The petitioner's grievance is that prescription of the cut off date as 31st of May, 2018 would result in his being transferred to a different school, though he would attain the age of superannuation just 4 days after the cut off date of 31st May, 2020.

The date of retirement of a School Teacher or a Head Master is on the last date of the month in which he attains 58 years of age. While the petitioner would, no doubt, complete 58 years of age on 04.06.2020, he would continue to remain in service till the 30th of June, 2020. Prescription of any cut off date is bound to effect those who retire

immediately thereafter. Accepting the petitioner's contention that, instead of 31st of May, the 30th of June should be prescribed as the cut-off date, would result in those who retire in the ensuing month of July being aggrieved by such a prescription. Mere prescription of a cut off date would not render Rule 5(1)(a) of the 2018 Rules *ultra vires* Article 14 of the Constitution of India.

The fact, however, remains that the Government has the power to relax the rigour of the 2018 Rules in terms of Rule 31 of the Telangana State and Subordinate Service Rules. The petitioner claims to have submitted a representation in this regard on 08.06.2018. As orders of transfer are scheduled to be issued only on 26.06.2018, ends of justice would be met if the 5th respondent is directed to consider the petitioner's representation in accordance with Rule 31 of the Telangana State and Subordinate Service Rules, pass orders thereupon, and communicate his decision to the petitioner on or before 26.06.2018.

The Writ Petition is disposed of accordingly. Miscellaneous Petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(J.UMA DEVI, J)

19th June, 2018

Note: Issue C.C tomorrow.

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