

HONOURABLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No. 19925 of 2018

Date : 15.6.2018

Between:

G Mothilal S/o Mangya Aged about 43 years Head of
Electrical and Electronics Engineering Section Government
Polytechnic Nirmal Nirmal District Erstwhile Adilabad District

Petitioner

And

State of Telangana
Represented by its Special Chief Secretary Higher Education
Department Secretariat Buildings Hyderabad 500 022 and
others

Respondents

The Court made the following:



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ORAL ORDER:

Heard learned counsel for petitioner , learned Government Pleader for Services and learned Government Pleader for Higher Education and with their consent the writ petition is taken up for disposal at the admission stage.

2. In the year 2016, candidature of the petitioner came up for consideration for promotion as Head of the Section. He was senior most person for such consideration. On promotion, options were asked for appropriate postings. As there was a vacancy of Head of Section, Electrical and Electronics Engineering Section, Government Polytechnic, Masab Tank, Hyderabad, petitioner opted for such vacancy. However, O.A. No. 1914 of 2016 was filed by one Mr N Purushothama Rao before the A.P. Administrative Tribunal and by order dated 1.6.2016 Tribunal directed not to fill up the said vacancy. The said O A was subsequently transferred to this Court consequent on abolition of A.P. Administrative Tribunal and renumbered as WP (TR) NO. 5944 of 2017. The said writ petition was withdrawn by the petitioner therein. In the mean time, petitioner was posted as Head of Section in Government Polytechnic, Nirmal in July, 2016 and working in the said post.

3. Alleging that his request to post him to Government Polytechnic, Masab Tank, Hyderabad was not considered even though transferred writ petition was dismissed petitioner earlier filed W P No. 6140 of 2018. This Court by order dated 23.2.2018 directed the Commissioner and Director of Technical Education to consider the representation of the petitioner dated 16.12.2017. On consideration of the said representation, by order dated 24.3.2018, request of the

petitioner for posting to Government Polytechnic, Masab Tank, Hyderabad was rejected informing that general ban on transfers in imposed by the Government.

4. Government lifted the ban on transfers and issued orders and formulated guidelines in G.O. Ms No. 61 Finance (HRM.I) Department dated 24.5.2018 and transfer process is now set in motion. The post which the petitioner is now claiming is also subjected to transfer counseling process.

5. This writ petition is filed seeking declaration that the action of the respondents in not posting petitioner as Head of Section of Electrical and Electronics Engineering Section, Government Polytechnic, Masab Tank, Hyderabad, even after lifting of ban on transfers, as illegal. Petitioner seeks exclusive consideration and posting him at Government Polytechnic, Masab Tank, Hyderabad, without subjecting him to transfer counseling.

6. According to learned counsel for petitioner, though petitioner was senior most when transfer counseling was taken up in the year 2016, due to litigation pursued by another employee and stay granted by Tribunal that vacancy was not given to him, therefore, said vacancy should be given to him now as ban on transfers was lifted and said vacancy cannot be subjected to transfer counselling.

7. It is not in dispute that on promotion options were called for appropriate posting to the extent of availability of vacancies. It appears petitioner was senior most in the promotion panel drawn in the year 2016 and therefore had the first opportunity to opt his choice of posting. As noted above, that vacancy could not be filled up due to litigation. By the time case was dismissed there was ban on transfers. As petitioner was already posted on promotion to Government Polytechnic, Nirmal in

July, 2016, he could have been brought to Hyderabad only by transfer whereas there was general ban on transfers. However, promotion is one aspect and posting is another aspect. In the promotion post petitioner was posted to Government Polytechnic, Nirmal in July, 2016 and working as such.

8. Petitioner is working in the cadre of Head of Section. As of now petitioner claim is only transfer. When transfers are taken up, the consideration of the petitioner for transfer depends on his eligibility as per the transfer guidelines and requests of other employees for such transfer in accordance with the guidelines formulated by the Government. Merely because petitioner had an option of choosing particular vacancy but could not be given because of litigation pursued by another employee, cannot vest a right in him to claim that said vacancy has to be automatically given to him, ignoring the claims of other employees who may be requesting for such transfer on fulfilling the conditions of transfer guidelines. Thus, claim for exclusive consideration to transfer him to Government Polytechnic, Masab Tank, Hyderabad is not valid.

9. For the foregoing reasons, I see no merit in the writ petition, accordingly the same is dismissed. Pending Miscellaneous petitions are closed.

DATE: 15-06-2018
TVK

P NAVEEN RAO,J

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