

HONOURABLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION NO.20421 OF 2018

Date : 06.7.2018

Between:

J.Laxmikanth s/o. J.Chandra Naik, Aged about 34 years,
Working as Lab Technician Grade-II, PHC Telkapalli,
Nagarkurnool district (new), Mahabubnagar (old) district.

....Petitioner

And

The District Medical & Health Officer, Mahabubnagar
and two others.

.... Respondents

The Court made the following:



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ORDER:

Petitioner belongs to Schedule Tribe community and is working as Lab Technician Grade-II. Pursuant to the orders of the Government in G.O.Ms.No. 247 (Health, Medical and Family Welfare (J2) Department dated 19.7.2007, recruitment process was taken up to fill up posts of Lab Technicians Grade-II in agency areas. Petitioner participated in the selections and based on his performance he was selected, appointed and posted in agency area i.e., PHC Balmoor. While he was working at PHC, Balmoor, he was on leave from 13.1.2017 on personal grounds. On reporting to duty in the month of August, 2017 he was posted to PHC Telkapally, Nagarkurnool which is non-scheduled area. In the present transfer exercise, petitioner is now posted to agency area.

2. Heard learned counsel for petitioner Sri P.Amarender and learned Government Pleader for Medical and Health Department for respondents.

3. According to learned counsel for petitioner within a short period he is moved out only because he was initially appointed in a vacancy located in Agency area and same is illegal. This contention is not disputed by learned Assistant Government Pleader.

4. Petitioner was appointed in Agency Area in the special drive conducted pursuant to G.O.Ms.No.247 dated 19.07.2017. Reading of G.O.Ms.No.247 dated 19.7.2007 would make it clear that Government was concerned with large number of vacancies in agency areas remained unfilled for long time, therefore took up special drive and in the process of taking up special drive Government also imposed restriction that persons recruited in pursuant to said special drive should not claim transfer out from the agency area for a minimum period of five years. In

other words, persons appointed pursuant to G.O.Ms.No.247 dated 19.7.2007 cannot request for transfer from the agency area for a period of five years. However, there is no prohibition on Lab Technician Grade II seeking transfer from the agency area to plain area after completion of their tenure of five years. As can be seen from G.O.Ms.No.247 dated 19.7.2007, no separate cadre is created for agency area and as clarified by learned Assistant Government Pleader post of Lab Technician Grade II is District cadre post covering the posts located in agency area and plain area.

5. Therefore, the contention of learned Assistant Government Pleader that petitioner is not liable to be transferred out from agency area is stated to be rejected.

6. It appears, petitioner is transferred to agency area only on the ground that his initial recruitment was in agency area. As held by this Court in WP Nos.19298 and 22321 of 2018, pronounced separately, such action is *ex facie* illegal. However, it is brought to the notice of this Court another employee is posted in the place occupied by petitioner. As incumbent is not a party to this writ petition, Court cannot direct retention of petitioner. Learned counsel for petitioner fairly submits that if a direction is issued to post him in any other post in plain area would suffice his interest. Having regard to this submission, while holding the action of respondents in transferring petitioner to agency area is illegal, respondents are directed to post him in any of the existing vacancies in plain area.

7. Accordingly, the writ petition is disposed of. Pending miscellaneous petitions are closed.

P NAVEEN RAO,J

DATE: 06-07-2018
TVK

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