

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE Ms. JUSTICE J. UMA DEVI

Writ Petition No.20565 of 2018

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

In this Writ Petition, the validity of Rule 5(3) of the Telangana Teachers (Regulation of Transfers) Rules, 2018 (hereinafter referred to as "the 2018 Rules"), as notified in GO Ms. 16 dated 6.6.2018, is questioned as being arbitrary and illegal on the ground that seniority has been reckoned in a particular school, and not the teacher's over-all seniority.

To understand this submission, it is necessary to take note of the contents of Rule 5(3) of the 2018 Rules. Rule 5(3) stipulates that Head Master/Head Mistress Grade II (Gazetted)/Teacher, who has completed a minimum period of two years service in a category of post in a school as on 31st May of the current year, shall be eligible to apply for transfer. According to the petitioner, Rule 5(3) of the 2018 Rules is contrary to Rule 33 of the Telangana State and Subordinate Service Rules, 1996 (hereinafter referred to as "the 1996 Rules") which reads as under:

"Seniority:

- (a) The seniority of a person in a service, class, category of grade, shall unless he had been reduced to a lower rank as a punishment, be determined by the date of his first appointment to such service, class, category or grade.
- (b) Provided that the seniority of a probationer or approved probationer in a service, class or category from which he stood reverted on the 1st November, 1956 or prior to that date, shall be determined in the state-wide gazetted posts and non-gazetted posts in the Department of the Secretariat and the offices of the heads of departments with reference to the notional date of continuous officiation with or without breaks in that service, class or category prior to the 1st November, 1956 to the date of re-appointment made thereafter, but it shall not disturb the inter-seniority which obtained in the Andhra State."

Let us now examine the facts of the present case in the light of Rule 33 of the 1996 Rules and Rule 5(3) of the 2018 Rules. The petitioner was appointed as a Teacher at Arkela Upper Primary School on 26.7.2009 where he worked till 13.2.2014. He was, thereafter, sent on deputation to work in the District Educational Office, Sangareddy on 14.2.2014 where he continued to work till 29.3.2017. He was transferred to Digwal Z.P. High School on 4.4.2017. The two year period, prescribed in Rule 5(3) of the 2018 Rules, would disable the petitioner from seeking transfer as, by 31.5.2018, he would have put in just a little more than a year's service as a teacher (ie, from 4.4.2017 till 31.5.2018).

The contention of Sri S.A.K. Mynoddin, learned counsel for the petitioner, is that such a stipulation, in Rule 5(3) of the 2018 Rules, falls foul of Rule 33 of the 1996 Rules; and the seniority of a teacher, right from the date of his initial appointment, should be taken into consideration in effecting transfers. Rule 33 only requires Seniority of a person in a service or class to be determined by the date of his first appointment to such service. The petitioner has failed to notice the distinction between seniority and transfer. While computing the seniority of any individual (including the petitioner herein), his seniority must be reckoned from the date of his first appointment to such service and, consequently, the petitioner's seniority must be reckoned from the date on which he was first appointed as a teacher at Arkela on 26.7.2009. For the purpose of transfer, the authorities have, however, chosen to prescribe two years of service, in the school in which a teacher is presently working, as the minimum service for being considered for transfer. Rule 5(3) disentitles those who have put in less than two years service in a particular school from seeking transfer to another school. It is not in dispute that the petitioner was transferred and posted at Digwal Z.P. High School only on 4.4.2017, and has not completed two years as a teacher in the said school

by 31.5.2018. He would fulfil the two year requirement of Rule 5(3) of the 2018 Rules only by 4.4.2019. Unless the Rules are modified in the interregnum the petitioner would be entitled to be considered for transfer only in the next academic year. The over all seniority of an employee is distinct from the minimum stipulated period of service in a particular school to be considered as eligible for transfer.

We see no reason, therefore, to entertain the present Writ Petition where the validity of Rule 5(3) of the 2018 Rules is under challenge. The Writ Petition as filed is wholly mis-conceived and is, accordingly, dismissed. Miscellaneous petitions pending, if any, shall also stand dismissed. No costs.

(RAMESH RANGANATHAN, ACJ)

(J. UMA DEVI, J)

2nd July, 2018

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