

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION NO.20988 OF 2018

Date: 06.2018

Between:

K Rajanna S/o Lalya Naik
42 years
Presently working as S A (Phy Science)
ZPHS Eturunagaram, Jaishankar Bhupalapally district
Warangal district Old

.....Petitioners

and

The State of Telangana
Rep by its Principal Secretary
School Education Department
Secretariat building, Hyderabad and others

.....Respondents



The Court made the following:

THE HON'BLE SRI JUSTICE P NAVEEN RAO

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ORAL ORDER:

Heard learned counsel for petitioner and learned Government Pleader.

2. Petitioner was appointed as School Assistant (Physical Sciences) on 1.12.2005. From 18.07.2017 he has been working in Zilla Parishad High School, Eturunagaram, Jaishankar Bhupalapally district, (Warangal district old). Petitioner is working in the present place by virtue of proceedings dated 18.7.2017. Consequent to lifting of ban on transfers, Government notified 'The Telangana Teachers (Regulation of Transfers) Rules, 2018' vide G.O.Ms No. 16 School Education (Ser.II) Department dated 6.6.2018 (Transfer Rules) and has undertaken transfer exercise. According to Rule 5, a teacher is liable for transfer on completion of 8 years of service. A teacher can request for transfer on completion of two years of service as on 31.5.2018. The grievance of the petitioner necessitating institution of this writ petition is that his service rendered from 1.12.2005 in ZPHS, Nallagunta, Venkatapur Mandal, Warangal district is not counted for the purpose of computation of service rendered in accordance with transfer rules.

3. While petitioner was working at ZPHS, Nallagunta, Venkatapur Mandal, Warangal district, he was placed under suspension by the orders of the District Educational Officer dated 18.2.2017. Vide proceedings dated 20.3.2017 charge memo was served. On review of the suspension by order dated 18.7.2017 suspension was revoked. On revocation of suspension, petitioner was posted to present place of work.

4. Learned counsel for petitioner would contend that petitioner was placed under suspension when he was working in ZPHS, Nallagunta, Venkatapur Mandal, Warangal district and on revocation of suspension

he is entitled to be posted in the same place whereas illegally he was posted to some other place; as this posting was illegally made, for the purpose of computation of qualifying service in accordance with the transfer rules, the entire service rendered by him from 2005 in ZPHS, Nallagunta, Venkatapur Mandal, Warangal district has to be considered and not considering that service, treating the service only from date of joining in the present place of posting is illegal. That petitioner's transfer in the year 2017 was not part of transfer exercise, but on a suo-moto decision taken. He would submit that suspension was illegally made and on enquiry it was found that there was no truth in the allegations levelled against him and based on the report of the enquiry, suspension was revoked. Thus, on revocation of suspension, as suspension was illegally made, he ought to have been retained in the same place from where he was placed under suspension.

5. Facts and contentions as briefly noted above would make it clear that petitioner is working in the present place of posting consequent to revocation of suspension and posting him vide orders of the District Educational Officer dated 18.7.2017. Rule 5 of the Transfer Rules prescribe criteria for transfers. According to Rule 5 (1) (a) teacher who has completed 5 years of service on 31.5.2018 shall be compulsorily transferred; as per Rule 5 (1) (b) Teacher who has completed 8 years in a particular school as on 31.5.2018 shall be compulsorily transferred. According to Sub Rule 3, a teacher who has completed minimum of two years of service as on 31.5.2018 is eligible to apply for transfer. Rule 6 deals with entitlement points based on the categorisation of the school in which teacher is working, provides special points for various categories of teachers mentioned therein and Rule 7 also provides special additional points. Rule 8 deals with preferential categories. As per the scheme of transfers, discernable from the Rules, a teacher must complete prescribed period of service for compulsory transfer or to request transfer

in the **present school /particular school**. Admittedly, petitioner is working in ZPHS, Eturunagaram, Jaishankar Bhupalapally district, present school/particular school, consequent to proceedings of the District Educational Officer dated 18.7.2017. Thus, for the purpose of consideration of his entitlement for transfer, as per the transfer rules, the placement in the **present school** alone is relevant. In what context petitioner was transferred has no relevance for the purpose of applying the relevant provisions of the transfer rules. It is appropriate to note that order of transfer, on revocation of suspension dated 18.7.2017 is not under challenge, therefore, no opinion is expressed on how and why the petitioner was moved out of Nallagunta, Venkatapur Mandal, Warangal district and posted to the present place. Further, even though, learned counsel for petitioner sought to make submissions on merits of the charges levelled against him, reason for suspension and the report of the Enquiry Officer, the Court is not going into the those aspects as the issue in this writ petition only concerned with transfer claim of petitioner and is not on the issue of validity of the disciplinary action taken against him.

6. In view of the clear provision in transfer rules, the claim of petitioner to compute service rendered by him in ZPHS Nallagunta, Venkatapur Mandal, Warangal district prior to his suspension as continuous service is not valid. I see no merit in the writ petition and the same is dismissed. Pending miscellaneous petitions shall stand closed. There shall be no order as to costs.

JUSTICE P.NAVEEN RAO

Date: -06-2018
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HONOURABLE SRI JUSTICE P.NAVEEN RAO



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