

HONOURABLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No.20984 of 2018

Date :27.7.2018

Between:

K.Rajesh Kumar, s/o. Sri K.Krishna,
Aged 38 years, working as Office Subordinate,
O/o the District Agricultural Officer,
Vikarabad, Vikarabad district.

....Petitioner

And

The State of Telangana, rep.by its Chief
Secretary, Finance (HRM-I) Department,
Telangana Secretariat, Hyderabad and
others.

.....Respondents

The Court made the following:



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ORAL ORDER:

Petitioner was appointed as Office Subordinate and posted to work in the office of Assistant Director of Agricultural (Soil Conservation), Vikarabad on 13.12.2011, later he was posted to the office of the District Agricultural Officer, Vikarabad on 1.11.2016. Thus, petitioner has completed about 7 years of service in Vikarabad. Consequent to lifting of ban on transfers, petitioner applied for transfer and specified his choice of posting in his application. In this writ petition, petitioner challenges denying his claim for transfer, posting to place of his choice and retaining him at the present place and retaining several long-standing persons.

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

3. According to learned counsel for petitioner, there are several long-standing employees in Ranga Reddy district and they are not disturbed and if only they are disturbed as per their long-standing tenure at a place, petitioner could have been accommodated to place of his choice. According to learned counsel several office subordinates are working for more than 15 years and some of them have completed more than 20 years and they are not disturbed in the transfer counseling for reasons best known to respondents. Retention of persons with long standing and not accommodating the requests of other employees amounts to arbitrary exercise of power and authority. The action of the

respondents is also contrary to the Government policy of shifting the employees on completion of tenure of five years.

4. According to learned Government Pleader, as per the norms prescribed by the Government to undertake transfers consequent to lifting of ban on transfers, only 40% of employees in a cadre can be disturbed. The total cadre strength of office subordinates in Ranga Reddy district is 33 and 40% of 33 comes to 13. In the seniority list of long standing employees, as per tenure of petitioner in Vikarabad, his name stood at serial No.21. According to learned Government Pleader, though 9 vacancies were available in Ranga Reddy district, petitioner could not be transferred because of 40% ceiling and only first three long standing persons were transferred.

5. Statement of office subordinates is enclosed at pages 63 and 64 of the paper book filed along with writ petition. As seen from the said statement, 14 persons are working for more than 11 years in their respective stations. First three have completed 25 years; 4th person - 24 years 10 months; 5th person- 20 years 9 months; 6th person- 21 years; 7th person 20 years 11 months and 11th person 18 years 4 months. Though, respondents submit that there were 9 vacancies, but only three were disturbed. Even by applying 40% ceiling limit, no explanation is forthcoming as to why all 9 vacancies were not filled and why several long-standing persons were not shifted. Learned Government Pleader sought to explain that disturbing all of them, even though vacancies are available, would be affecting 40 % ceiling limit, therefore, they are not disturbed. The Court is not convinced of this explanation.

Respondents could not have retained the employees for such a long period at same station/office while ignoring the request of others for transfer.

6. From the transfer guidelines notified vide G.O.Ms.No.61 Finance (HRM.I) Department dated 24.5.2018 two things are noticed. No employee should be retained in a station once he completes 5 years; and the primary objective of transfer guidelines is to act as an effective tool in capacity building with departmental employees getting verity of experience within the department {Clause VIII- (e)}. The action of respondent department in retaining several employees for more than 15 years at a station/office is contrary to the objective of the Government. It is also not conducive to proper administration by retaining an employee for a long time at a place/office. It is relevant to note that even within 40% ceiling transfers are not affected. In fact, in office attendant cadre even if this limit is breached it would not hamper administrative functioning.

7. Thus, exercise undertaken by respondents is not valid. By illegal exercise, petitioner is deprived of his entitlement for transfer to place of his choice and many are retained in same office/at same station for a very long time contrary to objective of transfer policy.

8. However, though, Court is not convinced with the exercise undertaking and petitioner is entitled to be considered for transfer, having regard to the fact that ban is re-imposed, no direction is issued to redo the transfer exercise. However, even according to assessment of respondents out of 9 vacancies 6

remained unfilled, respondents are directed to consider the request of the petitioner for transfer in any of the existing vacancies.

9. Accordingly, the writ petition is disposed of. No costs. Miscellaneous petitions, if any pending, are closed.

P NAVEEN RAO,J

DATE:27-07-2018
TVK



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