

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION NO.21428 OF 2018

Date: 03.07.2018

Between:

Mohammed Shafiudin S/o Mohd. Allahuddin
Aged 48 years,
Occu: Senior Assistant, Primary Health Center,
Aloor, Chevella, Ranga Reddy District.

.....Petitioner

and

Principal Secretary, State of Telangana,
Medical and Health Department, Hyderabad,
Telangana and others.

.....Respondents



The Court made the following:

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ORDER:

Petitioner is presently working as School Assistant in Primary Health Centre in Aloor, Chevella mandal, Ranga Reddy district. Petitioner is aggrieved by his transfer to Primary Health Centre, Kulkacherla in Medak district.

2. According to learned counsel for petitioner, in the elections held in February, 2018, petitioner was elected as Secretary of Telangana Non-Gazetted Officers' Union, Chevella Unit, Ranga Reddy district and is holding the said office. Therefore, petitioner is not liable to be transferred even if he has completed more than five years of service in a particular station. According to learned counsel, G.O.Ms.No.61 Finance (HRM.I) Department dated 24.05.2018, carved out exemption from being transferred to the office bearers of recognized associations/unions during their tenure and, therefore, his transfer is illegal. According to learned counsel, Telangana Non-Gazetted Officers Union Central, Hyderabad vide its letter dated 05.06.2018 informed the Director of Public Health & Family Welfare, the status of petitioner as Secretary of the Association.

3. On instructions, learned Assistant Government Pleader would submit that petitioner has completed seven years of tenure and, therefore, he is liable for transfer and denied the contention of learned counsel for petitioner that petitioner being Office bearer not liable to be transferred. He would submit that Telangana Non-Gazetted Officers' Union Central, Hyderabad, vide its letter dated

12.06.2018, communicated the list of 95 office bearers in all the Districts of Telangana State towards claiming retention in the same places as per the privilege offered to the office bearers of recognized service associations/unions. The name of petitioner is not shown in the said letter. According to learned Assistant Government Pleader, the competent authority has considered retention of office bearers based on the list furnished by the Central Union and as name of petitioner was not included in the said letter, he cannot be treated as representing the Union for retention.

4. On a bare perusal of letter of the Union, dated 12.06.2018, it is clear that union wanted retention of office bearers, whose names are enclosed to the said letter. Admittedly, name of petitioner is not shown in the said letter. Thus, petitioner cannot be treated as person liable for retention as per the Government policy extended to the office bearers of recognized service associations/unions. Thus, action of respondents in not treating the petitioner as Office bearer and affecting his transfer cannot be faulted. The decision of the Director in taking note of the list furnished by the Central Union regarding considering the claim for retention, cannot be faulted. If petitioner has any grievance against his Union in not reporting to the Director his status as office bearer of Union, he has to workout his remedies.

5. Learned counsel for petitioner further sought to contend that petitioner had exercised option to various places in Ranga Reddy district, but his options were not considered. Though the post of Senior Assistant is a zonal post and liable for transfer anywhere in

the zone, as stated by the learned counsel for petitioner, petitioner had exercised options only places within Ranga Reddy district, which is not valid.

6. From the proposition of law as laid down in several precedent decisions, it is manifest that the Court cannot go into intricacies of the cadre management and posting of the employees; there can be several imponderables requiring formation of a subjective opinion and Court cannot go into those administrative issues in exercise of power of judicial review. In any service, there can be competing claims/aspirations and the cadre controlling authority is the best judge to accommodate competing claims and organize his cadres. This Court cannot enter into aspect as to why petitioner could not be accommodated as per choice of place and was given a different place. The fact remains that petitioner has completed five years of service at the present place of posting and is liable for transfer. It is appropriate to note that no *mala fides* are attributed against any officer.

7. Therefore, I do not see any illegality in the transfer exercise undertaken by the respondents, warranting interference by this Court. Writ petition is dismissed accordingly.

Pending miscellaneous petitions shall stand closed. There shall be no order as to costs.

JUSTICE P.NAVEEN RAO

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