

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE MS JUSTICE J.UMA DEVI

Writ Petition No.22300 of 2018

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

Heard Ms.K.Kiran Mayee, Learned Counsel for the petitioner, and Learned Government Pleader for School Education (TG) and, with their consent, this Writ Petition is disposed of at the stage of admission.

Rule 5(1)(b) of the Telangana Teachers (Regulation of Transfers) Rules, 2018 (for short "the 2018 Rules"), notified in G.O.Ms.No.16 dated 06.06.2018, prescribes that Teachers, who have completed 8 years service in a particular school as on 31st May of the current year shall be compulsorily transferred, provided those who are going to retire within two years from 31st May of the current year shall not be shifted until and unless the incumbent requests for such transfer.

The petitioner is working as a Secondary Grade Teacher (SGT) in Primary School, Kothapeta, Harijanawada, Uppal Mandal, Medchal District (erstwhile Ranga Reddy District) and she seeks her retention in the said School till she retires from service. She is due to attain the age of superannuation on 05.06.2020. In terms of Rule 5(1)(b) of the 2018 Rules, if her date of superannuation is on or before 31st May, 2020, she is required to be retained in the very same School, where she was working earlier, notwithstanding her having completed 8 years of service in that school, unless she seeks transfer elsewhere.

The petitioner's grievance is that prescription of the cut off date as 31st of May, 2018 would result in her being transferred to a different school, though she would attain the age of superannuation just 5 days after the cut off date of 31st May, 2020.

The date of retirement of a School Teacher or a Head Master is on the last date of the month in which she attains 58 years of age. While the petitioner would, no doubt, complete 58 years of age on 05.06.2020, she would continue to remain in service till the 30th of June, 2020. Prescription of any cut off date is bound to effect those who retire immediately thereafter. Accepting the petitioner's contention that, instead of 31st of May, the 30th of June should be prescribed as the cut-off date, would result in those who retire in the ensuing month of July being aggrieved by such a prescription. Mere prescription of a cut off date would not render Rule 5(1)(b) of the 2018 Rules *ultra vires* Article 14 of the Constitution of India.

The fact, however, remains that the Government has the power to relax the rigour of the 2018 Rules in terms of Rule 31 of the Telangana State and Subordinate Service Rules. Ms.K.Kiran Mayee, Learned Counsel for the petitioner, submits that the petitioner would submit a representation in this regard by 03.07.2018. Ends of justice would be met if the 1st respondent is directed to consider the petitioner's representation in accordance with Rule 31 of the Telangana State and Subordinate Service Rules, pass orders thereupon, and communicate his decision to the petitioner on or before 10.07.2018.

The Writ Petition is disposed of accordingly. Miscellaneous Petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(J.UMA DEVI, J)

Date:02-07-2018

Note:
Issue C.C. by tomorrow.
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