

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

WRIT PETITION No.38697 of 2018

ORDER :

This Writ Petition has been filed seeking to declare the impugned action of the 2nd respondent in not giving options to the Petitioner seeking for transfer to schools other than NCC units though he has not completed 8 years of service as NCC Officer and not disposing of the appeal dated 09.07.2018 as illegal; and consequently direct the respondents to consider the Appeal of the petitioner for transferring him to Zilla Parishad High School, Digwal or to any other nearer place to his previous place of working as per his eligibility and seniority with all consequential benefits.

2. Heard learned counsel for the petitioner and learned Government Pleader for Services – I for respondents.

3. The petitioner is employed as School Assistant (Physical Science) in Zilla Parishad High School, Jharasangam since 19.10.2009. He was also commissioned as NCC officer in the year 2015.

4. The State Government issued G.O.Ms.No.16, School Education (SCR-II) Department, dated 06.06.2018, framing rules relating to transfers of Headmasters and Teachers called the Telangana Teachers (Regulations of Transfers) Rules – 2018 (for short 'the rules').

5. The petitioner contends that as per Rule-5 (1) (b) of the Rules, since he has completed 8 years of service in the above School, he is required to be compulsorily transferred. But he was given option to opt for transfer only to schools with NCC units and not for other non NCC unit schools which he is entitled to, and the action of the respondents in denying him the same violates Article 14 of the Constitution of India.

6. It is not in dispute that in the counseling the petitioner was allotted as School Assistant (Physical Science) in Zilla Parishad High School, Tekmal.

7. The petitioner assailed the same in an appeal filed before the 2nd respondent. In the appeal a specific ground is raised by the petitioner that web options given to him were confined only to 13 NCC Schools and he was denied option to choose a non NCC unit schools.

8. This contention is not adverted to in the order dated 03.11.2018, passed by the 2nd respondent, rejecting the petitioner's appeal.

9. Learned Government Pleader appearing for respondents contends that the petitioner's case falls under Rule 5(1) (a)/(b) and they have to be read with Rule 5 (4) of the Rules and since there was a shortage of NCC Commissioned Officers, the petitioner was allowed option to choose only NCC unit school.

10. Rule 5(1) (b), which is attracted to the instant case, shows that the persons like petitioners, who are teachers and who have completed 8 years of service in a particular school, are liable to be compulsorily transferred.

11. It is not the petitioner's case that he is not liable to be compulsorily transferred and his contention is that he should be given option to choose from non NCC Unit Schools.

12. Rule 5(4) of the Rules requires teacher who has completed (8) years of service as NCC Officer to be posted in a vacancy in a School where there is a NCC unit.

13. Since the petitioner has been commissioned as NCC officer only in 2015, he has not completed 8 years of service as NCC officer and therefore it cannot be contended by the respondents that he should be posted only in NCC unit schools and so allowed to opt only for NCC unit schools.

14. The respondents cannot ignore the rules framed by them and effect transfers like that of the petitioner arbitrarily for other considerations.

15. Accordingly, the transfer of the petitioner as School Assistant (Physical Science) in Zilla Parishad High School, Tekmal from Zilla Parishad High School, Jherasangam is set aside; the respondents are directed to permit the petitioner to seek transfer to vacancies in available schools which do not have a NCC unit, including the vacancy of School Assistant (Physical Science) in Zilla Parishad High School Malchalma, Zaheerabad Mandal, Medak District within two weeks from the date of receipt of copy of this order and then accommodate the petitioner in such a school without an NCC unit.

16. Accordingly, the Writ Petition is allowed with the above direction. Consequently, miscellaneous petitions pending, if any, in this Writ Petition shall stand closed.

12th November, 2018
JR

M.S.RAMACHANDRA RAO, J

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