

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

WRIT PETITION No.38686 of 2018

ORDER:

Petitioner has filed this Writ Petition assailing the order dt.03.11.2018 passed by the 2nd respondent rejecting petitioner's appeal against the action of the respondents in transferring him on 08.07.2018 to ZPHS, Chilver, which is the 13th option opted by him and to a NCC post there, which is at a distance of 100 kms., from ZPHS, RC Puram where he was earlier working, and also directing the petitioner to work at ZPHS, Patancheru as Associate NCC Officer twice in a week vide proceedings dt.24.10.2018 which place is at a distance of 80 kms from Chilver, where he is posted.

2. Admittedly, petitioner was appointed as Secondary Grade Teacher and had been working at ZPHS, R.C.Puram since 23.07.2009. In 2005, he was commissioned as NCC Officer after training. As per G.O.Ms.No.16 dt.06.06.2018 issued by the State of Telangana incorporating the Telangana Teachers (Regulation of Transfers) Rules, 2018 and in particular, clause 5(4) thereof, petitioner is liable to be posted in a vacancy in a school where there is an NCC post.

3. Petitioner gave a number of options as permitted under the said rules. The first of it was ZPHS, Patancheru. However, in the web counseling, petitioner was allotted ZPHS, Chilver, instead of ZPHS, Patancheru.

4. Admittedly, there is a NCC unit at ZPHS, Chilver but there is a NCC commissioned officer already working there and so the petitioner would not be able to function as NCC Officer at that Unit.

5. Though there is an NCC Unit available at ZPHS, Patancheru, where there is a vacancy of School Assistant (Physical Science), it is not in dispute that, a person who is not a NCC Commissioned Officer is given the said vacancy and the petitioner is posted at ZPHS, Chilver.

6. Petitioner contends that since NCC Commissioned Officers can be posted only in NCC Unit Schools and since the petitioner is the senior most among the NCC Commissioned Officers, without giving him posting as per his seniority as NCC Commissioned Officer, the respondents have prepared a combined seniority list of NCC Commissioned Officers and non-NCC teachers, who are School Assistants and have been filling School Assistant posts in Schools having NCC Units with persons who are not NCC Commissioned Officers and that this is arbitrary.

7. Counsel for the petitioner has also placed reliance on letter dt.30.05.2018 of the NCC Directorate addressed to the Secretary to the Government, State of Telangana with copy marked to the Special Chief Secretary to Government, Education Department, recommending that NCC Commissioned Officers be retained in the same school or colleges to enable continuity of NCC training, and if not, to give postings that optimizes their utilization in view of the critical deficiency in the number of Commissioned NCC Officers. He also contends that the respondents, unfortunately, have given cold shoulder to NCC training requirements of students and posted NCC Commissioned Officers in the units where their services are not required, like in the instant case.

8. Petitioner had filed an appeal before the 2nd respondent which was rejected by order dt.03.11.2018.

First reason for the rejection of the appeal is that petitioner had completed 8 years and is liable to compulsory transfer, which the petitioner does not dispute.

The second reason assigned is that petitioner had already joined ZPHS, Chilver and is drawing salary there. This cannot also be a reason, because the very posting of the petitioner at the said place is challenged in the appeal.

The third reason given in the order is that ZPHS, Chilver is the 13th option given in the options in the web counseling and other 12 options were filled by the persons, who are seniors in rank to the petitioner. Why the seniority of NCC Officers, who are also Secondary Grade Teachers, is mixed with that of non-NCC Officers, when the NCC Officers, who have completed 8 years of service, are very limited, is not dealt with in the impugned order.

The disturbing reason given is that the teaching is the main activity of the persons, like the petitioner, and NCC activity is an additional activity, thereby implying that it is less important.

9. In my considered opinion, the order passed by the 2nd respondent implying that NCC training to the students is not at all important and it is perfectly permissible to post NCC Commissioned Officer, like the petitioner, who had completed 8 years, in a particular school where he would not be taking up NCC activity because of the existence of another officer, who is taking care of the said duty, and compelling the petitioner to go twice a week to a different school, which

is 80 kms away, to work there as an NCC Commissioned Officer, cannot be sustained.

10. In any event, the justification to make the petitioner to work at ZPHS, Patancheru as an NCC Officer twice a week, which place is 80 kms., away from ZPHS, Chilver without being entitled to any TA and DA as per order dt.24.10.2018 issued by the 4th respondent appears to be clearly arbitrary and seems to be passed as a measure of punishment to the petitioner for having been questioned his posting at ZPHS, Chilver instead of ZPHS, Patancheru and to make it appear as if the petitioner's request is in fact being conceded to some extent.

11. Accordingly, the Writ Petition is allowed; the order dt.03.11.2018 of the 2nd respondent confirming the order dt.08.07.2018 passed by the 3rd respondent as well as order dt.24.10.2018 cannot be sustained; they are set aside; and the respondents are directed to consider posting the petitioner as School Assistant (Physical Science) in ZPHS, Patancheru, where he can also work as an NCC Commissioned Officer and give another posting to the incumbent posted there. This exercise shall be completed within a period of three (03) weeks from the date of receipt of a copy of this order. There shall be no order as to costs.

12. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

M.S.RAMACHANDRA RAO, J

14th November, 2018.

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