

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.44358 of 2018

ORDER :

This writ petition is filed seeking a Writ of Mandamus declaring the action of respondents in transferring and posting the petitioner in the last opted place i.e. ZPHS, Vangapally by impugned transfer orders dated 08.07.2018 issued by the 2nd respondent, and further rejecting the petitioner's appeal by proceedings dated 07.08.2018 issued by the 3rd respondent, as arbitrary, illegal and void, and consequently direct the respondents to transfer and post the petitioner in the existing vacancy at ZPHS, Peepalpahad, Chowtuppal Mandal under spouse ground with all consequential benefits.

Heard Sri Ch.Jagannatha Rao, leaned counsel for petitioner and the learned Government Pleader for School Education.

It has been contended by the petitioner that she is working as a School Assistant (Maths) at ZPHS, Chandepally, Athmakuru Mandal from 14.07.2010 and completed 7 years and 11 months of service, and she is eligible for transfer in the transfer counseling. The petitioner submits that as per the guidelines of transfer issued in G.O.Ms.No.16, dated 06.06.2018, the petitioner is placed at serial No.53 in the seniority list and the petitioner has given options to 50 places in the counseling. The grievance of the petitioner is that though she has given 50 options, her case was considered at 46th option instead of considering in the 2nd and 3rd options, which she has exercised in the counseling. Petitioner further contends that the cases of the persons who were juniors to her as per G.O.Ms.No.16, dated 06.06.2018, were considered and given

posting orders at the 2nd and 3rd options exercised by the petitioner, ignoring the case of the petitioner, and the 46th option given by the petitioner was considered vide proceedings dated 08.07.2018.

Aggrieved by the injustice done to the petitioner, she has preferred an appeal to the 3rd respondent on 11.07.2018, but the 3rd respondent had rejected the appeal preferred by the petitioner vide proceedings dated 07.08.2018 with a single line rejection in the annexure to the proceedings dated 07.08.2018 to the effect that her request was rejected as per Rule 14(3) of G.O.Ms.No.16, dated 06.06.2018.

Learned counsel for petitioner submits that the appeal of the petitioner was rejected with a single line order without assigning any reasons and no speaking orders were passed. Learned counsel for petitioner further contend that there are vacancies in the 3rd opted place exercised by the petitioner and the case of the petitioner can be considered against the said vacancies.

The learned Government Pleader appearing for respondents contend that in the appeal preferred by the petitioner, the petitioner has not raised the plea that juniors to her were considered for 2nd opted place, therefore, the petitioner cannot turn around and blame the appellate authority for not passing speaking orders. When the petitioner herself has not raised the issues in appeal, it is not for the appellate authority to pass speaking orders. Thus, the appellate authority has rightly dismissed the appeal on the ground that after counseling, the question of considering the case of petitioner for transfer does not arise, and hence,

there are no merits in the writ petition and the same is liable to be dismissed.

This Court, having considered the rival submissions made by the parties, is of the considered view that this writ petition can be disposed of directing the petitioner to file a fresh representation to the respondents within two weeks from the date of receipt of a copy of this order, categorically making it clear that the cases of juniors to the petitioners were considered ignoring the case of the petitioner, and the respondents shall re-consider the said representation and pass appropriate orders in another four weeks thereafter.

With these observations, the writ petition is disposed of. No order as to costs.

Pending miscellaneous applications, if any, shall stand closed.

6th December, 2018

ajr

ABHINAND KUMAR SHAVILI, J