

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.Nos.1155 OF 2019 & 44698 of 2018

COMMON ORDER

Since the issue involved in both the writ petitions is one and the same, they are being disposed of by this common order.

W.P.No.1155 of 2019 is filed challenging the action of the respondents in transferring the petitioner from ZPHS Shamshabad to ZPHS Nednoor, R.R.District *vide* proceedings dated 27.12.2018, only to accommodate the 6th respondent at that place.

W.P.No.44698 of 2018 is filed by the 6th respondent in W.P.No.1155 of 2019 challenging the action of the respondents in transferring her from ZPHS Shamshabad, though the post at Shamshabad was shown as vacant in the counselling.

Heard Sri V.Venkatarami Reddy, learned counsel appearing for the petitioner, learned Government Pleader for Education appearing for respondents 1 to 5, and Sri A.Ravinder, learned Standing Counsel appearing for the 6th respondent.

For the sake of convenience, the facts in W.P.No.1155 of 2019 are narrated hereunder.

It is the case of the petitioner that she is working as Physical Education Teacher-cum-N.C.C Officer in ZPHS Shamshabad, and has completed eight years of service as Physical Education Teacher at Shamshabad and not completed eight years of service as N.C.C Officer. Since the petitioner has completed eight years of service as Physical Education Teacher, she has given options in the transfer counselling to post her in any of the opted schools where physical education as well as NCC training are available. However, her case was not considered in the given options, and she was retained at ZPHS Shamshabad.

It is the case of the 6th respondent that she is working as Physical Education Teacher at ZPHS Kollapadkal, Maheshwaram Mandal, Ranga Reddy District and has completed eight years of service. Since she has completed eight years of service, she has to be compulsorily transferred and she has participated in the transfer counselling. Since ZPHS Shamshabad place was notified as vacant, she has given option in the said vacant post. The respondents *vide* proceedings dated 10.07.2018 posted her to ZPHS Shamshabad. Accordingly, she was relieved and reported to duty at ZPHS Shamshabad. But she was not permitted to join duty at ZPHS Shamshabad as the petitioner in W.P.No.1155 of

2019 was not relieved therefrom. Thereafter, the respondents *vide* proceedings 02.08.2018 transferred the 6th respondent to ZPHS Nednoor, Kandukoor Mandal. Accordingly, the 6th respondent reported at Nednoor. Subsequently, the 6th respondent filed W.P.No.44698 of 2018 contending that as per the transfer counselling, she is entitled to be posted at Shamshabad *vide* transfer order dated 10.7.2018 and that in order to retain the petitioner, the 6th respondent was once again subjected to transfer from ZPHS Shamshabad to ZPHS Nednoor *vide* proceedings dated 2.8.2018. During pendency of the writ petition, the respondents have issued proceedings dated 27.12.2018 posting the 6th respondent to ZPHS Shamshabad and transferring the petitioner to ZPHS Nednoor on the ground that the petitioner has completed eight years of service in the cadre of Physical Education Teacher. Challenging the transfer order dated 27.12.2018, the petitioner has filed W.P.No.1155 of 2019.

Learned Government Pleader appearing for the respondents submits that since the petitioner in W.P.No.1155 of 2019 has completed eight years of service, she has to be compulsorily transferred in terms of G.O.Ms.No.16, dated 6.6.2018; that the petitioner knowing fully well that she is liable to be transferred compulsorily, has not chosen to

participate in the transfer counselling, and thus, she was erroneously allowed to continue at Shamshabad, but the post in Shamshabad was notified in transfer counselling; that the 6th respondent participated in the counselling and she opted Shamshabad and accordingly, transfer order dated 10.07.2018 was issued posting her to ZPHS Shamshabad; that since the petitioner in W.P.No.1155 of 2019 was continued in Shamshabad, and not participated in the counselling, the 6th respondent was accommodated at ZPHS, Nednoor, Kundukoor Mandal *vide* proceedings dated 2.8.2018; that thereafter, the respondents have rectified the mistake by transferring the petitioner from ZPHS Shamshabad to ZPHS Nednoor as she has completed eight years of service *vide* proceedings dated 27.12.2018; that the 6th respondent was transferred to ZPHS Shamshabad as per the counselling procedure and in accordance with law and that there are no merits in the writ petition and the same is liable to be dismissed.

Having considered the rival submissions made by the learned counsel on either side, this Court is of the view that since the petitioner has completed eight years of service at ZPHS Shamshabad, she has to be compulsorily transferred, but she did not choose to participate in the counselling. The

petitioner knowing fully well that she has to be compulsorily transferred, has taken the risk of not participating in the counselling, thereby, subjecting herself to transfer, the respondents have rightly accommodated the 6th respondent at Shamshabad and transferred the petitioner from ZPHS Shamshabad to ZPHS Nednoor.

Accordingly, W.P.No.1155 of 2019 is dismissed. In view of dismissal of W.P.No.1155 of 2019, W.P.No.44698 of 2018 is closed as no further orders are required to be passed. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

22nd February, 2019
rkk

