

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVIL

WRIT PETITION No.8355 of 2019

ORDER:

This writ petition is disposed of at the stage of admission with the consent of both the parties.

This writ petition is filed seeking the following relief :-

“.... to issue a writ, order or direction especially one in the nature of writ of mandamus

(a) declaring that the action of the respondents in not showing the vacancy of School Assistant (Social), ZPHS, Kalwakurthy in Urdu Medium and showing the said post in Telugu Medium is illegal, arbitrary and discriminatory and is violative of Articles 14 and 16 of the Constitution of India.

(b) declare that rejection order passed by the 2nd respondent issued Proceedings in Rc.No.1848/ Trans/ Ser. IV-2/ 2015/ Appeals-Hyd and War, dt 19.9.2018 is illegal and arbitrary.

(c) declare that the respondents shall conduct re-counseling for filling up the post of School Asst (Social) Urdu Medium, Kalwakurthy by showing the vacancy of School Asst. (Social) Urdu Medium and accordingly direct the respondents to give preference to the petitioner”.

Heard Mr.M.Srinivasa Rao, learned counsel for petitioner and the learned Government Pleader for Services-I.

It has been contended by the petitioner that she is working as School Assistant (Social) with the respondents and she has completed eight years of service.

The grievance of the petitioner is that the respondents have not properly displayed the vacancy position of School Assistant (Social) in Urdu Medium in the counselling process and, therefore, she could not opt the vacancies according to her choice.

Learned counsel for the petitioner has contended that the petitioner has exercised her options and she is posted to Malreddypally in the transfer counselling, which was conducted during July 2018 and vide order dated 08.07.2018, the petitioner was transferred from Daulthabad to Malreddypally in the 23rd opted place.

The further grievance of the petitioner is that the vacancy position of School Assistant (Social) in Urdu Medium at Kalwakurthy was erroneously shown as Telugu Medium and as such, she could not opt the post of School Assistant (Urdu Medium) at Kalwakurthy. Because of non-displaying the vacancy position correctly, she has lost her valuable right to get transferred to Kalwakurthy. Therefore, she has preferred statutory appeal before the 2nd respondent, who had mechanically rejected the same vide order, dated 19.09.2018.

Learned counsel for the petitioner has contended that the respondents may be directed to re-conduct transfer counselling and give preference to the petitioner for suitable posting at Kalwakurthy.

Learned Government Pleader appearing for respondents has contended that from the date of transfer i.e., 08.07.2018, the petitioner has not reported to duty at Malreddypally and she was on leave. The petitioner was given posting as per the options given by her and she was accommodated in the 23rd opted place. She has no right to contend that she has to be transferred to Kalwakurthy. The case of the petitioner was considered in terms of the options given by her. Therefore, there are no merits in the writ petition and the same is liable to be dismissed.

This Court, having considered the rival submissions, is of the considered view that the petitioner being a School Assistant ought to have reported to duty pursuant to transfer order dated 08.07.2018 and pursued her remedies in the form of preferring an appeal before the 2nd respondent and later filed this writ petition. But the petitioner has not reported to duty, pursuant to transfer order dated 08.07.2018 and she was on leave. Her primary duty is to teach students and the students at Malreddypally are suffering without Teacher since July, 2018. The petitioner ought to have reported to the transferred place and subsequently pursued her legal remedies. Since the petitioner has not reported to duty, pursuant to transfer order dated 08.07.2018, this Court does not see any legal right in favour of the petitioner, as the case of the petitioner was considered and transferred as per the place opted by her i.e., 23rd opted place. The petitioner has not even exercised her option to the post at Kalwakurthy. The only ground raised by the petitioner is that the vacancy position was not properly displayed in the web counselling and that itself cannot give a right for the petitioner to contend that she be posted at Kalwakurthy. For a person to get posted, it depends on various factors i.e., entitlement of points, as per Rules issued by the State Government etc. Therefore, the petitioner has no legal right to seek posting at one particular place at Kalwakurthy on the ground that the respondents have not displayed the said vacancy. If the case of the petitioner is to be considered, the cases of various other Teachers also have to be considered depending upon their

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

Accordingly, the writ petition is dismissed. No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

ABHINAND KUMAR SHAVIL, J

Date: 22-04-2019
Prv



