

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.10050 of 2019

ORDER

This Writ Petition is filed seeking the following relief:

“to grant appropriate relief more in the nature of Writ of Mandamus under Article 226 of the Constitution of India declaring (Relieving Order) proceedings No.Rc.No.107/PHC/101/2019, dt 16.04.2019 issued by the 1st respondent and consequential proceedings Rc.No.Peshi/Sp1/2252/0MC/2019/338 dt 17.04.2019 issued by the 2nd respondent as arbitrary, illegal, discriminatory, *mala fide* and unconstitutional violating Articles 14, 16 and 21 of the Constitution of India and contrary to the judgment of the Honble High Court in W.P.No.21134/2018 and W.P.No.21551/2018 dt. 27.11.2018 and set aside the same and issue consequential directions directing the 1st and 2nd respondents to forthwith retain and continue the petitioner as Senior Assistant in the 2nd respondent college which post the petitioner was holding as on 16.04.2019 till effecting fresh transfers as per the directions of the Honble High Court judgment dt. 27.11.2018 in W.P.No. 21134/2018 and W.P.No.21551 /201 8 and pass such other order or orders.”

Heard Sri P.V.Krishnaiah, learned counsel appearing for the petitioner and learned Government Pleader for Services-II appearing for the respondents.

It is the case of the petitioner that he is working as Senior Assistant in the 2nd respondent-College. He is office bearer of the employees association. While effecting transfers, the respondents have retained the petitioner on the ground that he is office bearer of the employees association. Challenging the action of the respondents in retaining the petitioner by extending privileges to the office bearers of the employees association, one D.Maheshwar Reddy along with others filed W.P.No.21134 of 2018 and also filed W.P.No.21551 of 2018 challenging his transfer order dated 20.06.2018. Both the writ petitions were clubbed and heard together and this Court allowed both the writ petitions *vide* common order dated 27.11.2018 and the operative portion of the said order reads as under:

“Accordingly, both the writ petitions are allowed with costs of Rs.1,000/- (Rupees one thousand only) to be paid to the each of the petitioners by 3rd respondent; the proceeding dt.20-06-2018 retaining the respondent Nos.4 and 5 at the place where they were working on the said date while simultaneously transferring the petitioners is declared as illegal, arbitrary and violative of Article 14 of the Constitution of India; and the 3rd respondent is directed to consider the matter afresh both with regard to the postings of respondent Nos.4 and 5 as well as the petitioners within six weeks from the date of receipt of a copy of this order.”

Thereafter, *vide* impugned order dated 17.4.2019 the respondents have relieved the petitioner from the post of Senior Assistant and directed her to report before the Director of Public Health and Family Welfare, Telangana, Hyderabad. Challenging the same, the present writ petition is filed.

Learned counsel appearing for the petitioner submits that as this Court had specifically directed the 3rd respondent-Director of Public Health and Family Welfare in W.P.Nos.21134 & 21551 of 2018 to consider the matter afresh both with regard to postings of respondents 4 and 5 as well as the petitioners, the 3rd respondent ought to have considered the case of the petitioner at the time of transfer counseling, but not in middle of the academic year. It is submitted that the petitioners in W.P.Nos.21134 & 21551 of 2018 are posted in the place of respondents 4 and 5 and the petitioner herein who is the 5th respondent in W.P.No.21551 of 2018, has been transferred in order to accommodate the petitioners in W.P.Nos.21134 & 21551 of 2018 without conducting any fresh counseling. It is prayed that the petitioner may be continued and retained at Osmania Medical College till fresh counseling is undertaken; and that the impugned transfer order is liable to be set aside.

Learned Government Pleader appearing for the official respondents submits that the impugned transfer order dated 17.04.2019 was issued in compliance to the order dated 27.11.2018 passed in W.P.Nos.21134 & 21551 of 2018. While allowing the said writ petitions, this Court observed that retaining respondent Nos.4 and 5 at the place where they were working on the said date while simultaneously transferring the petitioners was bad and directed the 3rd respondent therein to consider the matter afresh, which does not mean to conduct fresh counseling. It is submitted 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 considered view that the respondents have rightly passed the impugned transfer order dated 17.4.2019 in compliance to the common order dated 27.11.2018 passed in W.P.Nos.21134 & 21551 of 2018. The contention of the petitioner that he should be transferred only in the fresh counseling cannot be accepted. This Court never directed that the case of the petitioner should be considered during fresh transfer counseling. This Court specifically directed the 3rd respondent to consider the matter afresh and pass appropriate orders. In pursuance

thereof, the respondents have considered the matter afresh and posted the petitioners in W.P.Nos.21134 & 21551 of 2018 in the place of the petitioner and one more contesting respondent. This Court is not inclined to interfere with the said transfer order. There are no merits in the writ petition and the same is liable to be dismissed.

Accordingly, the Writ Petition is dismissed. No costs.

Miscellaneous petitions, pending, if any, shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

26th July, 2019
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