

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.12437 of 2019

ORDER:

Heard Sri P.Krishna Reddy, learned counsel for the petitioner and the learned Government Pleader for Services-I. With the consent of both the parties, this writ petition is disposed of at the admission stage.

This writ petition is filed seeking the following relief :-

“.....Writ Of Mandamus by declaring the action of the Respondents not transferring the petitioner as per transfer seniority list serial No.68 to 70 and 77 and transferring the other candidates to the choice of the petitioner as illegal, arbitrary and violative of the principles of natural justice and consequently set aside the appeal order passed by the Director and transfer the petitioner to Primary School Gupanpally, Gupanpally Village, Nizamabad Dist., and transfer the petitioner to Primary School Gupanpally, Gupanpally Village, Nizamabad Dist., and also treat the three months leave period i.e., 11.07.2018 to 11.10.2018 as on duty with pay and orders may be passed”

It has been contended by the petitioner that she has been presently working as a Secondary Grade Teacher at Mondichinthala Thanda, Dharpally Mandal, Nizamabad District, and has completed more than eight years of service at Primary School, Ghanpur. While so, the Government has issued G.O.Ms.No.61, dt.06.06.2018 framing certain Rules for affecting transfers. The petitioner further submits that since her husband is also working in the Education Department, Nizamabad District, she sought for transfer to any nearby school where her husband is working as she is entitled for such transfer under spouse quota as

per the Rules. But the case of the petitioner was not considered for posting her to one of the places where she opted in the transfer counselling held during the year, 2018. Against the said action of the respondents, the petitioner preferred an appeal before the appellate authority, and the appellate authority without considering any of the contentions raised by the petitioner, mechanically rejected the said appeal vide order dated 27.09.2018. Challenging the same, the present writ petition is filed.

Learned counsel for the petitioner contends that there are many existing vacancies in the Nizamabad District and seeks a direction to permit the petitioner to make a fresh representation seeking transfer to a nearby place where her husband is working and the respondents be directed to consider the same and pass appropriate orders in accordance with the Rules.

Learned Government Pleader contends that the appeal preferred by the petitioner was considered and rightly rejected by the appellate authority and it is almost one year back the appeal was rejected and that the petitioner has approached this Court after joining the duty in the place where she is transferred, that too after a lapse of one year. Therefore, he contends that 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 learned counsel for the respective parties, is of the considered view that the appellate authority has rejected the appeal preferred by the petitioner with total non-application of

mind with an observation that petitioner's husband is not working in the Education Department, though he is working in the Education Department. On this ground alone, the impugned order passed by the appellate authority is liable to be set aside. Since it is almost one year the appellate authority has rejected the appeal preferred by the petitioner, this Court is not inclined to set aside the said order. As there are still existing vacancies in Nizamabad District, ends of justice would be met if the petitioner is permitted to submit a fresh representation within two weeks from the date of receipt of a copy of this order and upon such representation being received, the respondents shall consider the same and pass appropriate orders in accordance with the Rules within a period of eight weeks thereafter.

With the above observations and direction, this writ petition is disposed of. No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

Date: 30-10-2019
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