

HIGH COURT FOR THE STATE OF TELANGANA
THE HON'BLE THE CHIEF JUSTICE SRI RAGHVENDRA SINGH CHAUHAN
AND
THE HON'BLE DR. JUSTICE SHAMEEM AKTHER
WRIT PETITION No.13176 of 2019
02.07.2019

Between:

The Union of India and others

...Petitioners

and

G. Yadagiri

...Respondent

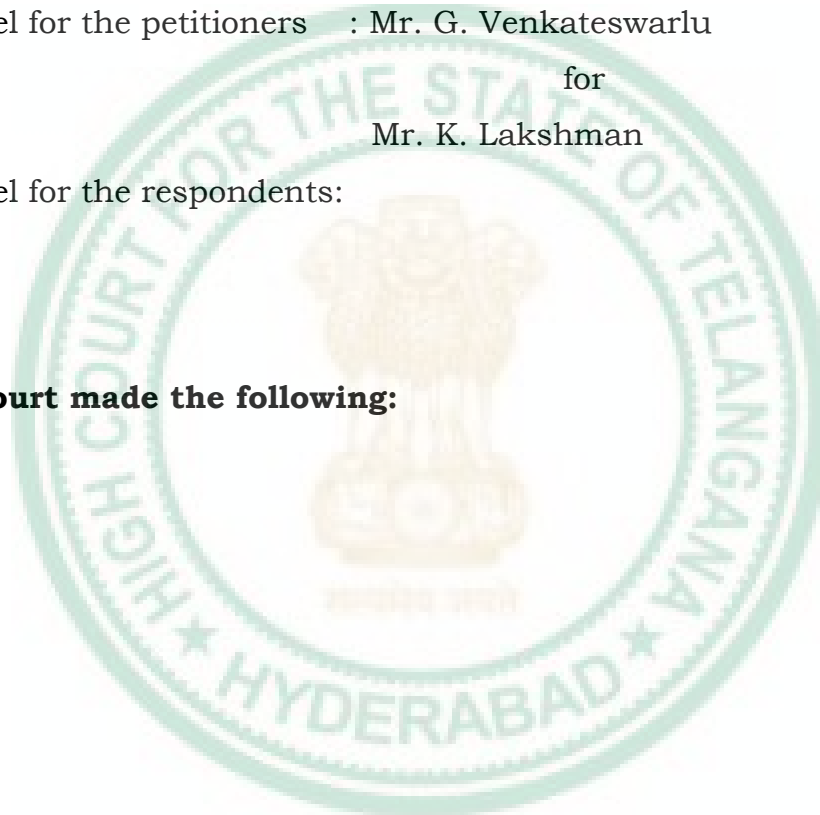
Counsel for the petitioners : Mr. G. Venkateswarlu

for

Mr. K. Lakshman

Counsel for the respondents:

The Court made the following:



ORDER: (Per the Hon'ble the Chief Justice Sri Raghvendra Singh Chauhan)

The petitioners are aggrieved by the order dated 08.03.2019 passed by the Central Administrative Tribunal, Hyderabad Bench, whereby the learned Tribunal has set aside the transfer order dated 21.04.2017, *inter alia*, on the ground that on the date of hearing, the respondent-applicant had merely one and half years to attain the age of superannuation.

Briefly, the facts of the case are that on 02.12.1987 the respondent-applicant, G.Yadagiri, was initially appointed as a Carpenter. In 1996, he was promoted as a Trade Fitter in High Skilled-II (HS-II). Moreover in 2009, he was further promoted to the post of Charge Man-II (CM-II). In 2009, the post of CM-II was re-designated as Junior Engineer (JE). Therefore, from 2009 till 2013, the respondent-applicant continued to work on the post of Junior Engineer. In April, 2013, the respondent-applicant was further promoted as Assistant Engineer (AE). Moreover, since 2013, he has been working as a Senior Quality Assurance Electronic (L), Secunderabad. However, by order dated 21.04.2017, the petitioner No.2 transferred the respondent-applicant from Secunderabad to Bangalore. Since the respondent-applicant was aggrieved by that transfer order, he filed an O.A, namely O.A.No.830 of 2017 before the learned Tribunal. By order dated 03.10.2017, the learned Tribunal had directed the petitioners to consider the representation filed by the respondent-applicant and to pass appropriate orders.

In compliance with the said direction, the petitioner No.4 dismissed the representation, by order dated 05.10.2017. Since the respondent-applicant was aggrieved by the rejection of his

representation, by order dated 05.10.2017, he filed the present O.A, namely O.A.No.858 of 2017. By order dated 08.03.2019, as aforementioned, the learned Tribunal has allowed the O.A, and directed the petitioners to consider the case of the respondent-applicant for re-transferring him to Secunderabad or nearby station, rather than working at Bangalore. Hence, this petition before this Court.

Mr. G. Venkateswaralu, the learned counsel appearing on behalf of Mr. K. Lakshman, the learned counsel for the petitioners, has vehemently contended that admittedly the transfer order was passed prior to the period of three years of superannuation. Therefore, on the date when the transfer order was passed, it was a legally valid one. Hence, the petitioners were justified in rejecting the representation submitted by the respondent-applicant. Therefore, the learned Tribunal was not justified in directing the petitioners to bring back the respondent-applicant from Bangalore to Secunderabad or nearby station.

However, a bare perusal of the impugned order clearly reveals that although the respondent-applicant was transferred from Secunderabad to Bangalore, although he has joined the office at Bangalore, on the date of passing of the impugned order, the respondent-applicant had merely one and half years prior to his retirement. It is this peculiar fact, which convinced the learned Tribunal to direct that the respondent-applicant be brought back to Secunderabad to serve the remaining period of his service without any disturbance and calmly and quietly.

In his play "The Merchant of Venice", William Shakespeare says "justice should be tempered with mercy". Even a modern

employer is required to show a sense of mercy and humanism while dealing with his employee. Therefore, knowing fully well that the respondent-applicant has merely one and half more years before he retires from service, the petitioners should have shown sufficient mercy to bring him back to Secunderabad, where he had served his entire tenure of service. After all, when an employee is about to retire, he is caught in a whirlpool of issues, which he must resolve even before he retires from service. While keeping in mind the difficulties faced by a person who is about to retire, generally the transfer policies clearly state that a person should not be transferred within the stipulated period of one year to three years. Even in the present case, the transfer policy of the petitioners clearly state that an employee should not be transferred within three years of his date of retirement. Although the petitioners may be justified in transferring their employee, just prior to three years period was about to commence, but considering the fact that the respondent-applicant has now merely one and half years more before he retires, the learned Tribunal is certainly justified in taking a generous view of the situation.

However, neither the order passed by the learned Tribunal, nor this order passed by this Court shall be taken as forming a precedent for the future. Both the orders are being passed, considering the peculiar facts and circumstances of the present case.

For the reasons state above, this Court does not find any merit in the present writ petition; it is, hereby, dismissed. There shall be no order as to costs.

The miscellaneous petitions pending, if any, shall stand closed.

RAGHVENDRA SINGH CHAUHAN, CJ

DR. SHAMEEM AKTHER, J

02nd July, 2019
JSU



High Court for the State of Telangana

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AND

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WRIT PETITION NO.13176 of 2019

(Per the Hon'ble the Chief Justice Sri Raghvendra Singh Chauhan)

Date: 02.07.2019

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