

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.15438 of 2019

ORDER:

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 :-

“..... to issue Writ of Mandamus declaring the action of the respondents in transferring and posting the petitioner to a far of place i.e., ZPHS Lingal vide proceeding dated 8-7-2018 by deleting the ten spouse points to the petitioner in violation of Rule-6(II)(d) is as illegal, void and consequently direct the respondents to consider the petitioner's representations dated 10-8-2018, 20-9-2018 and 12-7-2019 for petitioner transfer to any near by place including ZPHS (Boys) Kadthal which is a near by place to the place where the petitioner's wife is working and pass such other order.....”

Heard Sri Ch.Jagannatha Rao, learned counsel for the petitioner and the learned Government Pleader for Services-I.

It has been contended by the petitioner that he is working as School Assistant at ZPHS Andugula, Madugul Mandal, Mahabubnagar District and during the transfer counselling undertaken by the respondents in the month of July, 2018, he was transferred to a far of place without taking into consideration the 10 points for spouse category. Aggrieved by the same he preferred an appeal under Rule 16 of the Telangana Teachers (Regulation of Transfers) Rules, 2018 (for short 'the Rules') issued vide G.O.Ms.No.16 dated 06.06.2018 and the appellate authority without considering

any of the contentions raised by him has rejected the appeal vide order dated 07.08.2018 stating that as per Rule 14(3) of the Rules, his case cannot be considered. Thereafter, he also filed representations dated 10-08-2018, 20-09-1018 and 12-07-2019 requesting the 4th respondent to consider his case for transfer to a near by place where his wife is working.

Learned counsel for the petitioner contends that though as per Rule 14(3) of the Rules, once the transfer orders are issued by the competent authority, after the approval of the committee concerned, review or modification of the orders shall not be considered either by the committee or by the competent authority, Rule 16 of the Rules empowers the appellate authority to look into the grounds raised by the aggrieved persons and basing upon such grounds, it can modify or cancel the transfer order or pass appropriate orders in accordance with law. But the appellate authority without exercising such power simply rejected the appeal by passing a single line order stating that as per Rule 14(3) of the Rules, the case of the petitioner cannot be considered. He further contends that the respondents have so far not considered the representations submitted by the petitioner on 10-08-2018, 20-09-1018 and 12-07-2019 requesting the appellate authority to reconsider the case of the petitioner in terms of Rule 16 of the Rules for transferring the petitioner to a nearby place where petitioner's wife is working. Therefore, learned counsel for the petitioner contends that appropriate orders be

passed in the writ petition directing the appellate authority to re-consider the appeal preferred by the petitioner in accordance with Rule 16 of the Rules.

Learned Government Pleader appearing for respondents contends that as per Rule 14(3) of the Rules, when an employee is transferred, the authorities have got no power to modify or cancel the transfer orders and that the petitioner had approached this Court nearly after one year from the date of transfer. He further contends that if the case of the petitioner is considered for transfer from the present place of working, in the middle of the academic year, the interest of the students would be put to hardship; 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 appellate authority under Rule 16 of the Rules ought to have exercised its power either to reject the appeal or to pass appropriate orders by taking into consideration the grounds raised by the petitioner but would not have rejected the appeal by citing Rule 14(3) of the Rules.

Therefore, the impugned rejection order dated 08.07.2018 is liable to be set aside and accordingly set aside and the matter is remitted to the appellate authority with a direction to reconsider the appeal preferred by the petitioner and pass appropriate orders in accordance with Rules, within a period of eight weeks from the date of receipt of copy of this order.

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

Pending miscellaneous petitions, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

Date: 24-07-2019
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