

HIGH COURT FOR THE STATE OF TELANGANA

THE HON'BLE THE CHIEF JUSTICE RAGHVENDRA SINGH CHAUHAN

AND

THE HON'BLE SRI JUSTICE A.ABHISHEK REDDY

Writ Petition Nos.21237 and 21287 of 2019

Date: 11.11.2019

Between:

Dr.P.Surendra

..Petitioner

and

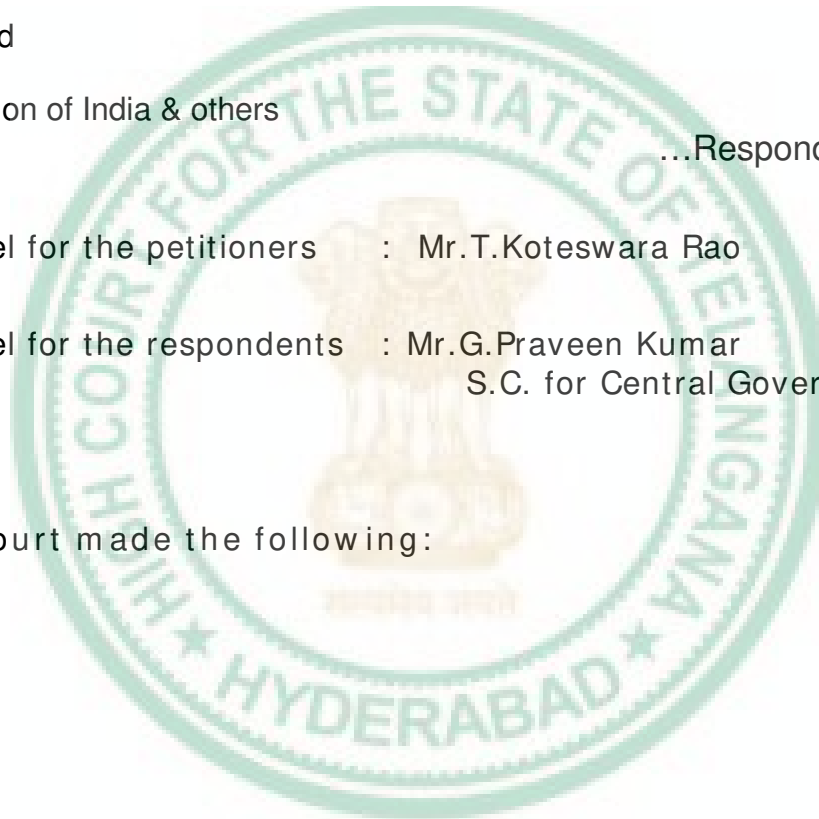
The Union of India & others

...Respondents

Counsel for the petitioners : Mr.T.Koteswara Rao

Counsel for the respondents : Mr.G.Praveen Kumar
S.C. for Central Government

The Court made the following:



COMMON ORDER: (Per the Hon'ble Sri Justice A.Abhishek Reddy)

As both the Writ Petitions are filed against the common order, they are taken up together and disposed of by this common order.

2. Aggrieved by the common order, dated 19.09.2019, passed in MA Nos.21/663/2019 and 21/571/2019 in O.A.No.21/556/2019, whereby the interim stay granted in favour of the petitioner was vacated, and the petition filed by the petitioner to implead the proposed respondents Nos.33 and 34 in the O.A. was dismissed, the present writ petitions are filed.

3. The brief facts of the case are that the petitioner, who is working as a Chief Medical Officer, Non-functional Selection Grade (NFSG) of Central Health Services (CHS), Hyderabad, working at Tarnaka Wellness Centre, was transferred from CGHS Wellness Centre Tarnaka, Hyderabad, to CGHS Wellness Centre, Padmarao Nagar, Hyderabad, by order dated 27.06.2019. The contention of the petitioner is that the said transfer is not in consonance with the Rules, punitive in nature and suffers from malafides. It is the case of the petitioner that the first respondent herein with a malafide intention has transferred the petitioner under the influence of the respondent No.5-Dr.P.Sridevi, who is the wife of respondent No.3-Dr.Visveshwar Rao, the Additional Director, CGHS. Assailing the transfer order, the petitioner has filed the O.A., which was numbered as 21/556/2019, and in the said O.A., two

miscellaneous applications viz., M.A. No.571/2019 filed by the Union Government-employer praying for vacating the stay granted on 01.07.2019, and M.A. No.663/2019 filed by the applicant-employee seeking impleadment of two persons as respondent Nos.33 and 34,. The Tribunal, vide impugned common order, while allowing MA No.571/2019 filed for vacating the stay granted on 01.07.2019, has dismissed MA No.663/2019 rejecting the implead petition for impleading the proposed respondent Nos.33 and 34. Aggrieved by the same, the present writ petitions are filed by the writ petitioner.

4. The learned counsel for the petitioner has submitted that the impugned common order suffers from malafides as the same was passed without considering the fact that the proposed respondent Nos.33 and 34 with the malafide intention to harass the petitioner, influenced the first respondent and got the petitioner transferred from Wellness Centre, Tarnaka, Hyderabad, to Wellness Centre, Padmarao Nagar, Hyderabad.

5. Per contra, the learned Standing Counsel appearing for the respondent-Central Government has supported the impugned common order and stated that the transfer of the writ petitioner was purely an administrative one and the petitioner cannot assail the transfer. Moreover, the transfer was from one part of Hyderabad to another part of Hyderabad and the distance between the two is hardly 3-4 KMs., from each other.

6. Heard both sides and perused the record.

7. Insofar as W.P.No.21237/2019 filed against dismissal of implead petition is concerned, as can be seen from the impugned common order, the Tribunal gave elaborate reasoning for dismissing the implead petition. The Tribunal concluded that the proposed respondent Nos.33 and 34 are neither necessary, nor proper parties to the *lis* as no relief was sought against the proposed respondents. The Tribunal has observed that if any explanation is necessary from the proposed respondents, the Tribunal has ample power to summon them, and can obtain necessary information for the just disposal of the O.A.

8. Generally, whenever a person has any grievance against a particular person or seeks any relief against him, he will be made as a party respondent in the litigation, and if for any reason or by mistake a particular party against whom the relief sought for is not made a party, the petitioner will file an application for impleading such party. The petitioner knowing fully well that no relief is claimed against the proposed respondents has not made them as party respondents, initially. Hence, he cannot file the present writ petitions to implead them, only to elicit some information.

9. In this case, the petitioner does not seek any relief from the proposed respondent Nos.33 and 34. But he only wants to establish that the orders of transfer are made with *malafide* intention by the respondent No.1 under the influence of proposed respondent Nos.33 and 34. The petitioner can call

for/summon any person to establish a fact, if he feels that the information that is sought to be placed on record is important. Thus, the reasons given by the Tribunal for dismissing the implead application are perfectly justified. Hence, we see no reason for interfering with the same.

10. Insofar as W.P.No.21287 of 2019 filed challenging the order vacating the interim stay granted on 01.07.2019 is concerned, the law on transfer is well settled that no employee can have any vested right to stay at a particular place; it is also a well established principle of law that transfer is an incident of employment. The employee cannot, as a matter of right, claim that he cannot be transferred from one place to another. The Hon'ble Supreme Court in a number of decisions has held that no employee can have a vested right to stay at one place, and that transfer is an incident of service.

11. In National Hydroelectric Power Corporation Ltd. v. Shri Bhagwan and Anr.¹ the Hon'ble Supreme Court has held as under:

No government servant or employee of a public undertaking has any legal right to be posted forever at any one particular place or place of his choice since transfer of a particular employee appointed to the class or category of transferable posts from one place to other is not only an incident, but a condition of service, necessary too in public interest and efficiency in the public administration. Unless an order of transfer is shown to be an outcome of mala fide exercise or stated

¹ 2001 (8) SCC 574

to be in violation of statutory provisions prohibiting any such transfer, the courts or the tribunals normally cannot interfere with such orders as a matter of routine, as though they were the appellate authorities substituting their own decision for that of the employer/management, as against such orders passed in the interest of administrative exigencies of the service concerned.

12. In *Shilpi Bose (Mrs.) and Ors. v. State of Bihar and Ors.*² the Hon'ble Supreme Court has observed as under:

In our opinion, the courts should not interfere with a transfer order which is made in public interest and for administrative reasons unless the transfer orders are made in violation of any mandatory statutory rule or on the ground of mala fide. A government servant holding a transferable post has no vested right to remain posted at one place or the other; he is liable to be transferred from one place to the other. Transfer orders issued by the competent authority do not violate any of his legal rights. Even if a transfer order is passed in violation of executive instructions or orders, the courts ordinarily should not interfere with the order instead affected party should approach the higher authorities in the department. If the courts continue to interfere with day-to-day transfer orders issued by the Government and its subordinate authorities, there will be complete chaos in the administration which would not be conducive to public interest.

13. In *N.K. Singh v. Union Of India*³, the Hon'ble Supreme Court held as under:-

² 1991 Supp (2) SCC 659

³ 1994 SCC (6) 98

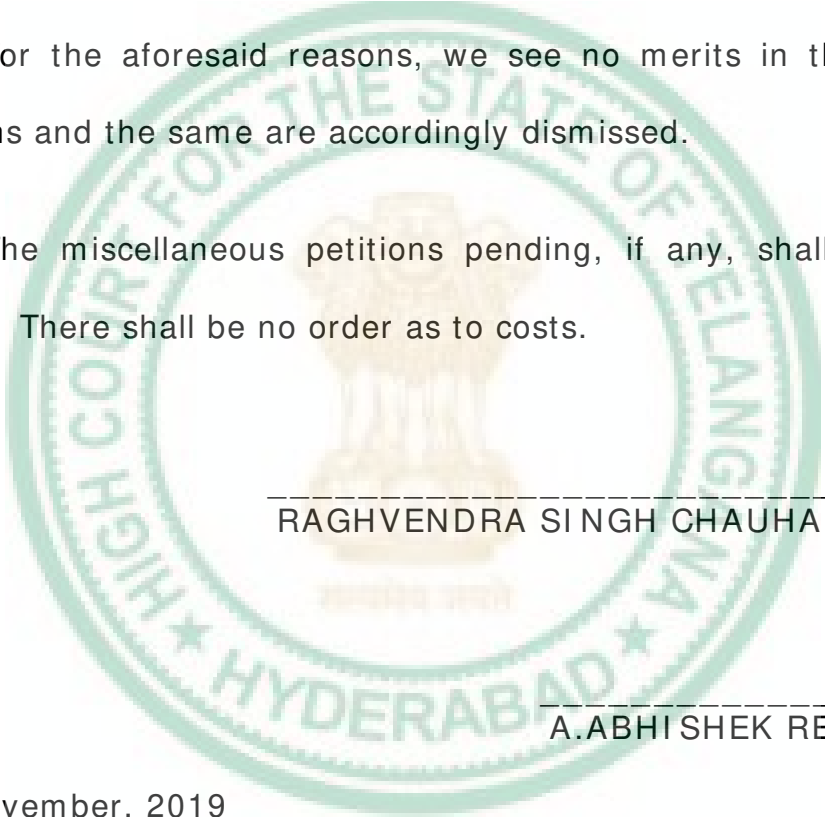
Transfer of a government servant in a transferable service is a necessary incident of the service career. Assessment of the quality of men is to be made by the superiors taking into account several factors including suitability of the person for a particular post and exigencies of administration. Several imponderables requiring formation of a subjective opinion in that sphere may be involved, at times. The only realistic approach is to leave it to the wisdom of that hierarchical superiors to make that decision. Unless the decision is vitiated by mala fides or infraction of any professed norm or principle governing the transfer, which alone can be scrutinised judicially, there are no judicially manageable standards for scrutinising all transfers and the courts lack the necessary expertise for personnel management of all government departments. This must be left, in public interest, to the departmental heads subject to the limited judicial scrutiny indicated.

14. Further, it is the case of the respondents that the transfer of the petitioner was purely on administrative grounds and there were no *mala fide* or ill-intention in transferring the petitioner. Thus, the petitioner cannot complain against the same. The petitioner in this case also cannot complain that due to transfer he is being subjected to harassment, as the distance between the present working place of the petitioner i.e. Wellness Centre, Tarnaka, to the proposed place of transfer i.e. Wellness Centre, Padmarao Nagar, is hardly three to four kms away from one centre to another. It is uncomprehensible as to how the petitioner can be aggrieved by a transfer from one place to another place within the same city that too within the radius of four kms? Further, it is not the case of the petitioner that he has

been frequently transferred from one place to another within a short period. The petitioner has also not placed any material to show that the transfer was made with a malafide intention, or that it was made to harass the petitioner. In the absence of any proof to that effect, the order of the Tribunal passed in MA Nos.21/663/2019 and 21/571/2019 in O.A.No.21/556/2019 is perfectly legal and justified; the same does not warrant any interference by this Court.

15. For the aforesaid reasons, we see no merits in the writ petitions and the same are accordingly dismissed.

The miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.



RAGHVENDRA SINGH CHAUHAN, HCJ

A.ABHISHEK REDDY, J

11th November, 2019
smr