

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

W.P. No. 22660 of 2019

Date: 18-10-2019

Between:

Smt. S. Renuka

...Petitioner

And

Union of India

Rep. by the Secretary

Ministry of Water Resources

River Development & Ganga Rejuvenation (RD & GR)

Shram Shakthi Bhavan, New Delhi and 4 others

...Respondents

Counsel for the petitioner: Ms. K. Udaya Sri

**Counsel for the respondents: Mr. G. Venkateswarlu,
SC for CG**

The Court made the following:

Order: (per Hon'ble The Chief Justice Raghvendra Singh Chauhan)

Mrs. S. Renuka, the petitioner, has challenged the legality of the order dated 23-09-2019, passed by the Central Administrative Tribunal, Hyderabad Bench, Hyderabad (for short 'the Tribunal'), whereby the learned Tribunal has dismissed the interlocutory application filed by the petitioner, and has denied the interim stay to her.

Briefly, the facts of the case are that the petitioner had joined the Central Ground Water Board (CGWB) on 25-05-1987 as a Senior Technical Assistant (Junior Geophysicist). She was further promoted as a Scientist-B (Junior Geophysicist) in June, 2012. According to the petitioner, her husband was working in the National Board of Agriculture and Rural Development (NABARD) as Deputy General Manager at Lucknow. At his request, by order dated 27-03-2017, he was transferred from Lucknow to Hyderabad.

By order dated 11-04-2018, the petitioner was transferred from Hyderabad to Nagpur. Since the petitioner was aggrieved by the said transfer order, on 16-04-2018, she

filed a representation requesting for her retention at Hyderabad on the ground that her husband had been transferred from Lucknow to Hyderabad, and that her children were pursuing their education in Hyderabad. Since the said representation did not elicit any reaction, the petitioner filed an original application, *namely* OA. No. 450 of 2018 before the learned Tribunal. By order dated 02-05-2018, the learned Tribunal granted an interim order in favour of the petitioner by directing the respondents that the transfer order shall not be given effect to till the petitioner's representation is duly disposed of. Consequently, the petitioner filed another representation on 03-05-2018. Considering the said representation, by order dated 05-06-2018, her place of posting was changed from Nagpur to Visakhapatnam. Since the petitioner was still aggrieved by the transfer order dated 05-06-2018, she filed miscellaneous application, *namely* MA. No. 530 of 2019, requesting that she be permitted to amend the prayer clause and to add further additional grounds. Since the respondents were taking steps to relieve her from Hyderabad, the petitioner filed another miscellaneous application, *namely* MA. No. 618 of 2019, in OA.No. 450 of 2018 for staying all further proceedings in

pursuance of the transfer order dated 05-06-2018. However, when the said application was argued on 06-08-2019, the learned counsel for the respondents produced an office order dated 02-08-2019, clearly showing that the petitioner was relieved on 02-08-2019. On 02-08-2019, respondent No. 3 also addressed a letter to the Director (Administration), CGWB, Faridabad, to allot a post of Scientist-B (Junior Geophysicist) at Visakhapatnam in order to facilitate the petitioner to join the said post.

On receiving the order dated 02-08-2019, the petitioner again filed a representation on 17-08-2019 for reconsideration of her transfer order ostensibly on the ground of her children's education, and on the ground that her husband had been transferred from Lucknow to Hyderabad, and for her health reasons. According to her, she had suffered an accident, which had injured her knee. Therefore, she had to undergo treatment from 02-08-2019 to 16-08-2019, for which she was on medical leave till 17-08-2019. Since the said representation did not elicit any reaction from the respondents, the petitioner has filed the present OA before the learned Tribunal. Along with the OA, the

petitioner has filed an interim application for temporary injunction. However, the said application has been dismissed by the learned Tribunal by the impugned order dated 23-09-2019. Hence, the present petition before this Court.

The learned counsel for the petitioner has vehemently contended that according to the transfer policy dated 11-12-2017, an employee should not be separated from his spouse or his family. However, the said policy is being violated in the present case.

Secondly, since the petitioner continues to suffer from health issues, the respondents should have considered her plight and should have recalled the transfer order.

Lastly, the petitioner is being transferred to Visakhapatnam although the post of Scientist-B (Junior Geophysicist) is yet to be created thereat.

On the other hand, the learned counsel for the respondents submits that the transfer policy is merely directory and not mandatory in nature. Therefore, the

respondents have sufficient discretion to post an employee contrary to the transfer policy.

Secondly, the post of Scientist-B (Junior Geophysicist) has been created in Visakhapatnam. Therefore, the petitioner is unjustified in claiming that the said post does not exist.

Lastly, freedom at the joints has to be given to the employer to decide the place of posting of an employee, especially, keeping in mind the administrative exigencies that may exist. Therefore, the respondent has supported the impugned order.

Heard the learned counsel for the parties and perused the impugned order.

A bare perusal of the impugned order clearly reveals that the learned Tribunal has already noticed that on the basis of the previous representation given by the petitioner, the transfer order was modified and it was directed that instead of posting her at Nagpur, she should be transferred to Visakhapatnam. Moreover, a post of Junior Geophysicist does exist at SUO, Visakhapatnam. Therefore, the learned

counsel for the petitioner is unjustified in claiming that no such post exists at Visakhapatnam.

In catena of cases, the Hon'ble Supreme Court has clearly opined that a transfer policy is merely directory in nature, and not a mandatory one. Sufficient freedom at the joints has to be given to the employer to decide as to when to transfer an employee, and where to post the said employee. Therefore, even if there is a deviation from the transfer policy, the transfer order does not stand vitiated for the said reason. Needless to say, once a person joined a service, he or she is well aware of the fact that he or she may be transferred from one place to the other. Moreover, a transfer is not by way of punishment, but is a routine transfer. Therefore, this Court does not find any illegality or perversity in the impugned order.

Since the writ petition is devoid of any merit, it is, hereby, dismissed. It is, hereby, clarified that any observation made by this Court should not affect the final decision of the learned Tribunal.

As a sequel, Miscellaneous Petitions, pending if any,
stand disposed of as infructuous.

(Raghvendra Singh Chauhan, CJ)

(A. Abhishek Reddy, J)

Dt: 18th October, 2019
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