

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.33798 of 2018

ORDER:

This writ petition is filed seeking a Writ of Mandamus, declaring the action of respondent No.1 in issuing the impugned Memo dated 15.09.2018 transferring the petitioner as Mandal Agriculture Officer, Jinnaram by posting the 3rd respondent in his place, as bad, illegal, arbitrary, opposed to law, contrary to the rules and in violation of the rules framed facilitating the office bearers to enjoy the privilege of retention in a place for 6 years.

Heard Sri M.Vidyasagar, counsel for petitioner, Government Pleader for Services, appearing for respondents 1 and 2 and Sri A.Giridhar Rao, counsel appearing for respondent No.3.

It has been contended by the petitioner that he is working as Mandal Agriculture Officer at Hayathnagar since 2013 and he was elected as an office bearer of the Association, namely, "Telangana Agricultural Officers' Association", during 2016. The State Government had issued Circular Memos dated 26.06.2012 and 30.06.2012, wherein, a policy decision was taken by the State to continue the office bearers of recognized Service Associations in their respective places for 3 terms for those having 2 years as term of office and for 2 terms for those having 3 years as term of office. As per the said Circular Memos, liberty was given to the competent authorities to effect transfers on administrative grounds before expiry of 6 years

period, by recording reasons. The petitioner further submits that vide G.O.Ms.No.61, dated 24.05.2018, ban on transfers was lifted and transfers were effected in terms of G.O.Ms.No.61, dated 24.05.2018. The grievance of the petitioner is that he has been elected as an office bearer of Telangana Agriculture Officers' Association during 2016 and even before completion of his tenure in terms of Circular dated 26.06.2012, he was transferred contrary to the said Circular. Challenging the same, the present writ petition is filed.

Counsel for petitioner contends that as per the Circular Memo dated 26.06.2012, the respondents can effect transfers on administrative grounds in respect of office bearers, however, after recording reasons. But, in the instant case, no reasons were assigned in the impugned orders dated 15.09.2018, except stating that the petitioner was transferred on administrative grounds. Counsel for petitioner further contends that only in order to accommodate respondent No.3, the petitioner was transferred contrary to the Circular Memo, dated 26.06.2012 and G.O.Ms.No.61, dated 24.05.2018. Counsel for petitioner contends that appropriate orders be passed in the writ petition by setting aside the impugned transfer orders dated 15.09.2018 and retain the petitioner at Hayathnagar, Ranga Reddy District, in terms of Circular Memo dated 26.06.2012 and also in terms of G.O.Ms.No.61, dated 24.05.2018.

The learned Government Pleader appearing for respondent Nos.1 and 2 has submitted that the petitioner had indulged in grave irregularities and he was placed under suspension vide proceedings dated 29.06.2017. Challenging the orders of suspension, the petitioner has filed writ petition No.22887 of 2017 and this Court, vide order dated 25.07.2017, was pleased to grant interim suspension of the suspension orders and the petitioner was reinstated into service on 16.09.2017, by revoking the suspension and he was retained at Hayathnagar in the transfer counseling conducted by the respondents during July, 2018. As the petitioner is facing disciplinary action, he was initially placed under suspension, but as the said suspension orders were suspended by this Hon'ble Court, the suspension of the petitioner was revoked. In the transfer counseling, the benefit of Circular Memo dated 26.06.2012 was extended to the petitioner. Since grave allegations were levelled against the petitioner, he was transferred on administrative grounds by way of impugned orders dated 15.09.2018, after transfer counseling was over way-back in July, 2018. It is further submitted that when an employee is facing disciplinary proceedings, the disciplinary authority can place him under suspension so as to ensure that the charged employee would not tinker or tamper the record and also to ensure that the charged employee would not influence the witnesses, if any. Since the suspension orders were suspended by this Court, the official respondents have no other option except to transfer the petitioner on

administrative grounds, as he was facing disciplinary proceedings. Hence, the contention of the petitioner that he should be retained at Hayathnagar in terms of Circular Memo dated 26.06.2012 as the petitioner is an office bearer of the Association, is not applicable to the instant case. The petitioner was given the benefit of the Circular dated 26.06.2012 during the transfer counseling, but it is only during September 2018, the petitioner was transferred on administrative grounds as the petitioner is facing disciplinary action. There are no merits in the writ petition and the same is liable to be dismissed.

Counsel appearing for respondent No.3 submits that in pursuance to the orders passed by the State Government, the 3rd respondent has reported to duty, but because of the stay orders granted by this Hon'ble Court, the 3rd respondent is not in a position to join at the transferred place as Mandal Agriculture Officer at Hayathnagar, therefore, contends that appropriate orders be passed in the writ petition by vacating the interim order so as to enable the 3rd respondent to join as Mandal Agriculture Officer at Hayathnagar, in pursuance to the transfer proceedings dated 15.09.2018.

This Court, having considered the rival submissions made by the parties, is of the considered view that the 1st respondent has rightly passed transfer orders transferring the petitioner from Hayathnagar to Jinnaram vide the impugned orders dated 15.09.2018. As far as the contention of the petitioner that he is entitled to the benefit of Circular

Memo dated 26.06.2012 is concerned, the petitioner was given the said benefit during the transfer counseling and he was retained at Hayathnagar. The respondents wanted to proceed with the disciplinary case by placing the petitioner under suspension, but, as the suspension orders were suspended by this Court, the respondents had no other option except to transfer the petitioner, and therefore, the 1st respondent has rightly transferred the petitioner from Hayathnagar, so as to ensure that the petitioner would not tinker or tamper the evidence and would not influence the witnesses, if any, in the departmental proceedings. Therefore, this Court is not inclined to interfere with the impugned transfer orders dated 15.09.2018.

There are no merits in the writ petition and the same is accordingly dismissed. No order as to costs.

Pending miscellaneous applications, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

13th March 2019

ajr