

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.38466 OF 2018

ORDER

This writ petition is filed seeking the following relief:

“.... to issue a writ, order or order more in the nature of Mandamus declare the impugned Pro.Rc.No. 1848/Trans/Ser.IV-2/2015 Appeals-Hyd and Wgl, dt 08-10-2018 issued by the 1st respondent whereby mechanically rejected petitioner's claim for modification of posting Govt High School, Satapur Farm, which opted is vacant due to modification of posting order to one Sri K.Ganga Kishan in the same Proc. Dt 08-10-2018 at Govt. DNT UPS School, Padkal Thadkal, while not considering claim of the petitioner is clearly discriminatory and applying different yardsticks for the same cause is illegal, arbitrary and unjust and set aside the same in so far as the petitioner is concerned and consequently direct the 1st respondent to post the petitioner to Govt High School, Satapur Farm, which is opted at Sl.No.8 in the web option is vacant with all consequential benefits and pass such other order or orders may deem fit and proper in the circumstances of the case.”

Heard Sri M.Ram Gopal Rao, learned counsel appearing for the petitioner and learned Government Pleader for Services-II appearing for the respondents.

It is the case of the petitioner that he is working as School Assistant (Biological Science) at Government High School, Dharugally, Nizamabad District. Since he has completed nine years of service at that place, he falls under

the category of 'compulsorily transferable'. As per the Rules, he submitted his transfer application through on-line and exercised web options. Thereafter, the 2nd respondent *vide* proceedings dated 8.7.2018 included his name at Sl.No.1160 and transferred him to Government High School, Azamgunj, Bodhan Mandal, though the opted places were shown as vacant at the time of exercising the web option. Aggrieved by the said order, the petitioner preferred statutory appeal before the 1st respondent. The 1st respondent *vide* proceedings dated 08-10-2018 rejected the said appeal. But the 1st respondent had entertained the appeal preferred by one K.Ganga Kishan, who was initially posted at Government High School, Sattapur Farm, and modified his posting to Government DNT UPS Padakal Thanda of Jakrampally Mandal.

Learned counsel appearing for the petitioner contends that the appellate authority without application of mind passed the impugned rejection order dated 8.10.2018 and not granted any relief to the petitioner; that the very same appellate authority considered the request of K.Ganga Kishan and modified his posting to Govt. DNT UPS Padakal Thanda of Jakrampally Mandal; and that the appellate authority ought to have considered the case of the petitioner in the resultant vacancy of K.Ganga Kishan and ought to have posted him at Government High School, Sattapur Farm.

Learned Government Pleader appearing for the respondents submits that since the petitioner was transferred to Azamgunj, he preferred an appeal and the appellate authority has rejected the appeal on the ground that any subsequent vacancies which arise in the counseling will be filled up in the next academic year and that is the reason why the case of the petitioner was not considered; that the appellate authority has rightly rejected the case of the petitioner; that since the petitioner has not joined in the transferred place at Azamgunj, the students at Azamgunj suffered because of his absence and that the writ petition is liable to be dismissed.

Having considered the rival submissions made by the learned counsel on either side, this Court is of the view that the appellate authority ought to have considered the case of the petitioner in the resultant vacancy which is caused consequent upon the transfer of K.Ganga Kishan from Sattapur Farm to Padakal thanda of Jakrampally Mandal. The contention of the learned Government Pleader that because of the absence of the petitioner, the students at Azamgunj have suffered, may not be correct as one N.Kamala was transferred to Azamgunj in the very same proceedings. The case of the petitioner can be considered for posting at Sattapur Farm in the resultant vacancy caused due to transfer of K.Ganga

Kishan from Sattapur Farm to Padakal thanda of Jakrampally Mandal.

Accordingly, the Writ Petition is allowed and the impugned rejection order dated 8.10.2018 is set aside. The respondents are directed to consider the case of the petitioner for posting him at Sattapur Farm before commencement of the academic year. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

24th April, 2019
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