

HIGH COURT FOR THE STATE OF TELANGANA

THE HON'BLE THE CHIEF JUSTICE SRI RAGHVENDRA SINGH CHAUHAN

AND

THE HON'BLE SRI JUSTICE A. ABHISHEK REDDY

WRIT PETITION No.1087 of 2020

Date: 22.01.2020

Between:

The Union of India, and others

... Petitioners

and

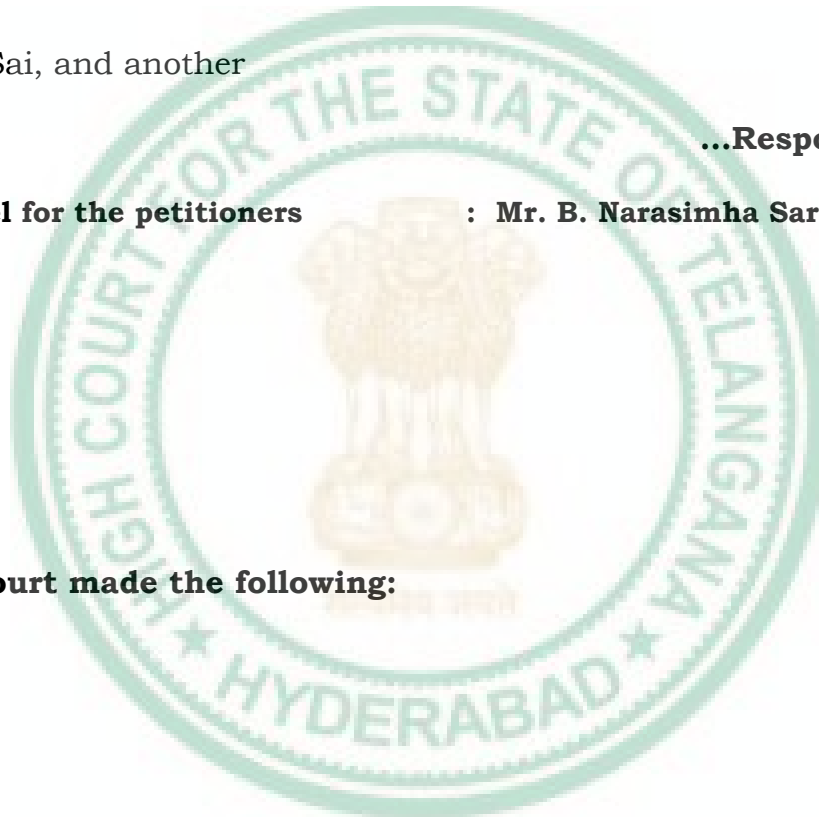
YVST Sai, and another

...Respondents

Counsel for the petitioners

: Mr. B. Narasimha Sarma

The Court made the following:



ORDER: *(per the Hon'ble the Chief Justice Sri Raghvendra Singh Chauhan)*

The Union of India and other petitioners have challenged the legality of the orders dated 18.12.2019 and 02.01.2020, passed by the Central Administrative Tribunal, Hyderabad Bench, in O.A.No.21/1107/2019. By the former order, the learned Tribunal had suspended the transfer order of the respondent No.1, the applicant, *namely* Mr. Y.V.S.T. Sai. By the latter order, it had continued the interim order and had directed that the petition shall be taken by the Division Bench of the Tribunal "*on priority basis*" on 03.02.2020.

Briefly the facts of the case are that the applicant was posted at Hyderabad on the post of Commissioner of Income Tax (DR) (ITAT)-2. He is due to retire within three years. On 06.02.2019, an annual general transfer order was issued by the petitioners. According to that transfer order, the respondent-applicant was due to be transferred. However, as the applicant was suffering from autoimmune disease, which causes short breath due to lack of oxygen, and since the applicant was under medical treatment at Hyderabad, he filed a representation praying that his case for transfer should be reconsidered on the twin grounds of his retirement within three years, and on medical grounds. However, despite his representation, even in the transfer list dated 06.03.2019, he was slated to be transferred to Kolkata. Again the applicant

filed a representation on 10.03.2019 praying that he should either be retained at Hyderabad, or should be transferred to Delhi, or Vijayawada. Despite his representation, the petitioners were bent on transferring him to Kolkata. Therefore, the applicant filed the aforesaid O.A. before the learned Tribunal. By order dated 18.12.2019, the learned Tribunal stayed the transfer order, and by order dated 02.01.2020, the stay order was continued, and as mentioned above, the case was slated to be taken on "*priority basis*" on 03.02.2020.

The learned counsel for the petitioners does admit that according to the transfer policy, a person, who has less than three years service prior to his retirement, can be transferred only according to his own desire, but not otherwise. Therefore, it is rather surprising that the present writ petition has been filed challenging the twin orders mentioned herein above.

Needless to say even if a transfer has to be made, generally, it should be in compliance with the transfer policy. Considering the medical ailments suffered by the applicant, considering the fact that he is due to retire within three years, the learned Tribunal was certainly justified in staying the transfer order. Moreover, the learned Tribunal has already observed that the case shall be taken by the Division Bench

“on priority basis” on 03.02.2020, after receiving the counter from the Union of India itself.

For the reasons stated above, this Court does not find any merit in the present writ petition. It is, hereby, dismissed. There shall be no order as to costs.

As a sequel, miscellaneous petitions, pending if any, shall also stand dismissed.

(RAGHVENDRA SINGH CHAUHAN, CJ)

(A. ABHISHEK REDDY, J)

Date: 22.01.2020
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