

HONOURABLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No. 37538 of 2018

Date : 11.2.2020

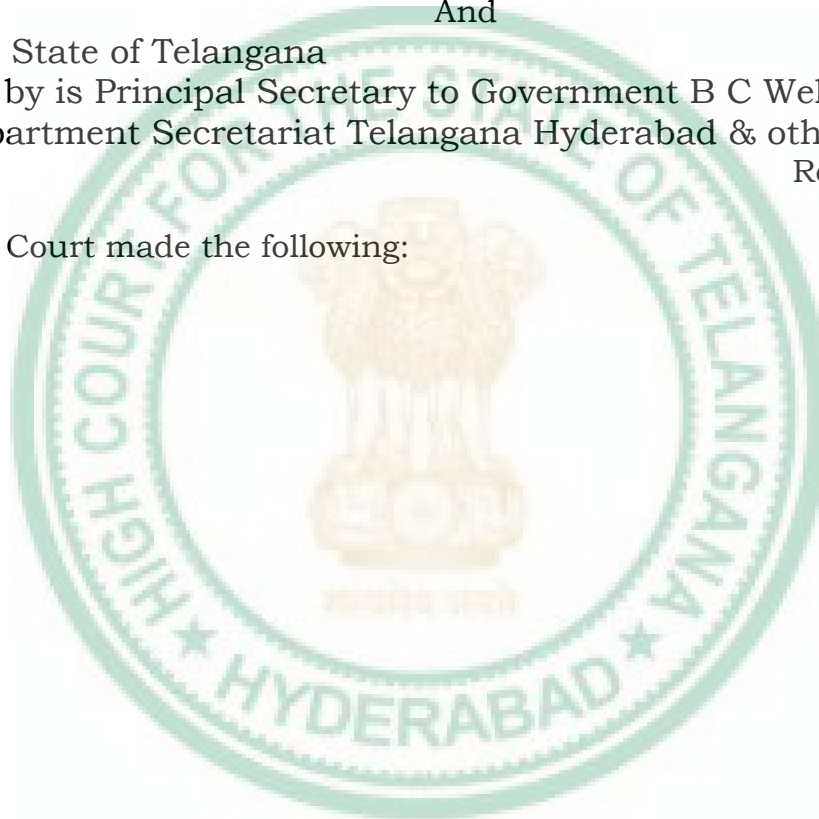
Between:

Smt Asifa Begum W/o Late Shafi
Aged about 37 years
Occ Atender on deputation to Work as Kamati
Government BC Hostel Kamareddy Kamareddy District
Petitioner

And

The State of Telangana
rep by is Principal Secretary to Government B C Welfare
Department Secretariat Telangana Hyderabad & others
Respondents

The Court made the following:



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ORAL ORDER:

Heard learned counsel for petitioner and learned Government Pleader for Social Welfare.

2. Petitioner was appointed as Attender on compassionate grounds. By order dated 20.9.2018 petitioner was deputed to work in Government BC Boys Hostel (A), Kamareddy as 'Kamati'. The transfer order reflects her present status as 'Kamati'.

3. The impugned order is challenged on two grounds; firstly, petitioner was appointed as Attender and Attender cannot be transferred and posted as Kamati and petitioner cannot be transferred out of the unit of appointment i.e., Govt. B.C. Boys Hostel, Bhiknoor.

4. Respondents sought to justify the transfer of petitioner on the ground that a person working in one hostel can be transferred to another hostel and there is no change of emoluments and conditions of service, therefore transfer is not vitiated merely because petitioner was earlier working as Attender and now directed to work as Kamati. It is further asserted that conditions of service including petitioner's entitlement for promotion in the cadre of Junior Assistant are also not affected as promotion to the post of Junior Assistant is based on a combined seniority list.

5. Rule 14 of the Last Grade Service Rules vests power in the competent authority to effect transfers. According to Sub Rule (a) no member of the service should be transferred out side the unit of appointment and according to Clause (b), no employee can be transferred

from one category to another category but within a category transfer is permissible irrespective of functions attached to the post, however, it requires recording of reasons. Post of Attender is organized as Category-2 of the Services and post of Kamati is organized as category-8. Thus, both posts are in different categories and in view of Rule 14-(b) person working in Category 2 cannot be transferred to category-8. Thus, the question of protection of emoluments or promotional avenues has no relevance when Rule 14-(b) is categorical. The District BC Development Officer is not competent to transfer outside the category, therefore, order is ex-facie illegal and liable to be set aside.

6. Accordingly, impugned order is set aside and respondents are directed to post the petitioner as Attender in her unit of appointment. For any exigencies of service, if petitioner's services are required to be transferred, such transfer shall be in accordance with Rule 14-(b) of the Last Grade Service Rules.

7. At this stage, Court is informed that pursuant to the interim orders of this Court, petitioner was brought back to the original post where she was working earlier. In view thereof, writ petition is disposed of. No costs. Miscellaneous petitions, if any pending, are closed.

P NAVEEN RAO,J

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TVK

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