

(2008) 08 AP CK 0007

Andhra Pradesh High Court

Case No: Writ Petition No. 15640 of 2008

Ch. Siva Kumari

APPELLANT

Vs

A.P. Social Welfare Residential
Educational Institutions Society
and Others

RESPONDENT

Date of Decision: Aug. 14, 2008

Citation: (2008) 6 ALD 755 : (2009) 120 FLR 825 : (2009) 1 SLR 286

Hon'ble Judges: L. Narasimha Reddy, J

Bench: Single Bench

Advocate: J.R. Manohar Rao, for the Appellant; K. Durga Prasad and M. Surender Rao, for the Respondent

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

L. Narasimha Reddy, J.

The petitioner is appointed as a P.G. Teacher in the A.P. Social Welfare Residential Educational Institutions Society (for short "the Society"). By June 2008, she was working in an institution of the Society at Mababubabad, Warangal District. The respondents have undertaken general transfers and conducted counselling for that purpose. Vide order, dated 16.6.2008, the Secretary of the Society transferred the petitioner to an institution at Wyra, Khammam District. However, the Chairman of the Society, 3rd respondent herein, issued orders, dated 15.7.2008, transferring the petitioner to the institution at Kalluru, Khammam District, in the place of the 2nd respondent, and the latter was posted to the institution at Wyra. The same is challenged in this writ petition.

2. The petitioner contends that the order of transfer, dated 16.6.2008, was not challenged by anyone and in fact, no one has any grievance, since it was against a clear vacancy and did not result in replacement of any employee. It is also urged

that the 3rd respondent had virtually acted as an appellate authority and has set aside the order, dated 16.6.2008, without issuing any notice and without assigning any reasons.

3. On behalf of respondents 1 and 3, a counter-affidavit is filed, stating that the impugned order was passed on a representation made by the 2nd respondent and no illegality had crept into it. It is also stated that the 3rd respondent was satisfied about the entitlement of the 2nd respondent to be posted to the institution at Wyra and accordingly, the impugned order was passed.

4. The 2nd respondent has filed independent counter-affidavit. According to her, she was staying at Kalluru for the past six years and she figured as No. 1 in the list of teachers, identified for counselling. She contends that she is entitled to be posted to the institution at Wyra, in view of the points secured by her.

5. Heard Sri J.R. Manohar Rao, learned Counsel for the petitioner, Sri K. Durga Prasad, learned Counsel for respondents 1 and 3, and Sri M. Surender Rao, learned Counsel for the 2nd respondent.

6. Time and again, this Court reiterated the principle that transfer is an incidence of service and no employee can claim any right to be transferred to a particular place. The main area of interference, in such matters is, where the orders of transfer are passed in violation of any specific clause in the transfer policy. The object of the transfer policy is to ensure that the employees are not indiscriminately transferred in frequent intervals and to inject an element of transparency into the process.

7. The petitioner made a representation to the 1st respondent seeking transfer, on the ground that her husband is employed at a place in Khammam District. Her request was acceded to and she was transferred to the institution at Wyra, against a clear vacancy, after undertaking counselling. The 2nd respondent was also due for transfer and was included in list. She gave three options, as required under the policy. Her options were for the institutions at Wyra, Khammam or retention at Kalluru. The 1st respondent permitted the 2nd respondent to remain at Kalluru. Though the 2nd respondent was not transferred to a different place, it cannot be said that her case was not considered in the counselling process. The reason is that her retention at Kalluru was, in acceptance of one of her options.

8. The 2nd respondent did not have any locus standi to challenge the order, dated 16.6.2008, transferring the petitioner to Wyra. The reason is that the petitioner was not posted against her place. The representation made by the 2nd respondent to the 3rd respondent appears to be the, one insisting that she must be posted at Wyra alone. Such a course does not appear to be in consonance with the principles governing transfers.

9. The claim of an employee, insisting on transfer from a particular place, itself is something extraordinary. Added to that, the 2nd respondent insisted that she must

be posted to place identified by her, that too, after one of her options was accommodated.

10. The entire process has resulted in shifting of the petitioner from Wyrā, hardly within one month from the date of her earlier transfer. The 3rd respondent did not issue any notice to the petitioner nor does the impugned order indicate that any defect was pointed out in the order, dated 16.6.2008.

11. For the foregoing reasons, the writ petition is allowed and the impugned order, dated 15.7.2008, is set aside. There shall be no order as to costs.