
(2022) 10 TEL CK 0058

In the Telangana High Court

Case No : I.A.No. 4 Of 2022 In Writ Petition No. 27500 Of 2022

Dr. Prasanna Kumar Repalle

APPELLANT

Vs

State Of Telangana And 2 Others

RESPONDENT

Date of Decision : 17-10-2022

Acts Referred:

Citation : (2022) 10 TEL CK 0058

Hon'ble Judges : P. Madhavi Devi, J

Bench : Single Bench

Advocate : Pranay Sohini

Final Decision : Allowed/Dismissed

Judgement

1. In this Writ Petition, the petitioner is seeking a Writ of Mandamus declaring the action of respondents 2 and 3 in not showing any vacancy for the position of Associate Professor in Livestock Farm Complex in C.V.Sc., Rajender Nagar as contrary to the Guidelines for General Transfer dt.05.06.2017 notified vide Proceedings No.4436/SC/2015 and consequently to declare the Proceedings No.1922/Ser.1/2022 dt.08.06.2022 as illegal, arbitrary and contrary to the Guidelines for General Transfer and to set aside the proceedings dt.08.06.2022 and pass such other order or orders as this Court may deem fit and proper in the circumstances of the case.

2. Brief facts leading to the filing of the present Writ Petition are that petitioner is a professor and is currently working as the Head of the Department of Livestock Production and Management College of Veterinary Science, Korutla, Jagtial District. The petitioner submitted that he is eligible for transfer according to the eligibility list prepared by the respondent University. It is submitted that the petitioner is a native of Hyderabad and his family, i.e., his wife and two children are residing at Nacharam and that he has completed 12 years of service outside Hyderabad. It is submitted that the wife of the petitioner is working in the Centre for DNA Fingerprinting and Diagnostics, Hyderabad and the same is a non-

transferrable job and since the children of the petitioner are also growing up, it is becoming very difficult for the wife of the petitioner to manage the house alone and for these reasons, the petitioner has applied for transfer in the position of Associate Professor in Livestock Farm Complex in C.V.Sc., Rajender Nagar. It is submitted that currently, the faculty of Livestock Farm Complex in C.V.Sc., Rajender Nagar has completed the mandatory service of 5 years and as per the general transfer guidelines, the said post is vacant. It is submitted that respondents 2 and 3 in direct contravention of the Notification and the Guidelines for General Transfer dt.05.06.2017, has not shown any vacancy position for the post of Associate Professor in Livestock Farm Complex in C.V.Sc., Rajender Nagar and the said act of the respondents 2 and 3 is contrary to Clause 5 of the Guidelines for General Transfer dt.05.06.2017. It is further submitted that though the General Transfer order is to be passed in a composite manner and no individual transfer orders are to be passed, respondents 2 and 3 after issuance of the list of eligible candidates for general transfer on 06.06.2022, immediately on 08.06.2022 vide proceedings No.1922/Ser.1/2022 has transferred one Dr. N. Rajanna, Professor from Department of Livestock Production and Management College of Veterinary Science, Mamnoor as Programme Co-ordinator, KVK Mamnoor and Dr. J. Narasimha Programme Co-ordinator, KVK Mamnoor has been transferred as Associate Professor in the Department of Animal nutrition, College of Veterinary Science, Rajendernagar to which post the petitioner has applied for. It is submitted that the said transfer is contrary to the scheme of transfer as notified vide Circular Memo No.2331/Ser.I/2022 dt.06.06.2022, wherein a schedule for counselling and consideration of the transfer applications has been fixed for the purposes of transfer of the eligible persons. It is further submitted that one Dr. Suresh Rathod, who has completed his tenure of 5 years as Professor, Department of LFC, CVSc., Rajendernagar is transferred to the position of Professor from Department of Livestock Production and Management College of Veterinary Science, Mamnoor instead to the position of the petitioner and the position of Dr.Suresh Rathod has been kept vacant. Therefore, according to the learned counsel for the petitioner, the entire procedure being followed by the respondents is in violation of the General Transfer Guidelines issued by the 2nd respondent University and therefore, the impugned proceedings of transfer dt.08.06.2022 have to be set aside and consequently to direct the respondents 2 and 3 to follow the General Transfer Guidelines and consider the transfer application of the petitioner in accordance with the said Guidelines.

3. This Court vide orders dt.29.06.2022 had granted interim stay of the transfer proceedings.

4. Thereafter, the 2nd respondent has filed counter affidavit on behalf of respondents 2 and 3 and also filed stay vacate petition in I.A.No.4 of 2022.

5. With the consent of both the parties, the Writ Petition itself has been heard for disposal.

6. Learned counsel for the petitioner, Sri Pranay Sohini, has drawn the attention

of this Court to the Guidelines and submitted that as per the General Transfer Guidelines issued by the 2nd respondent dt.05.06.2017, all transfers, including the request transfers should be considered during the schedule of counselling only and according to Guideline No.7, only one proceeding shall be issued for transfer of all the staff of one category and no individual transfer orders shall be passed. It is submitted that the petitioner has worked all along outside Hyderabad and now is eligible for transfer to Hyderabad and if the service of the officer who has completed 5 years is not shown as vacant, then the petitioner cannot apply for the said post and he cannot be considered for transfer.

7. Sri M. Surender Rao, learned Senior Counsel representing Sri A. Venkataramana, learned Standing Counsel for the respondent University, submitted that though the petitioner is challenging the mutual transfer order dt.08.06.2022, the petitioner has not made the persons mentioned therein as party respondents to this Writ Petition and therefore, on this ground alone, this Writ Petition is liable to be dismissed. It is further submitted that the petitioner has not demonstrated as to how the transfer order dt.08.06.2022 is prejudicial to the interest of the petitioner. He further submitted that as seen from the Guidelines of the General Transfer, special posts are excluded from the application of those Guidelines. He submitted that the Programme Co-ordinator is a specialized post and therefore, such posts are excluded from general transfers list and may not be notified. Further, in paras 4, 8, 10, 11, 12, 13, 14 and 15 of the counter affidavit, the averments are as under:

"4. With regard to the transfer made through Proc.No.1922/Ser.I/2022, dated 8.6.2022, it is submitted that Krishi Vigyana Kendra located at Mamnoor, Warangal (U) district is 100 per cent funded by Indian Council of Agricultural Research and the post of Programme Coordinator (Head of the scheme) is considered as specialized post as per Clause 2(10) of the Transfer Policy Guidelines and it is purely an administrative post which will not come under Transfer policy of teachers.

8. The averments in para 8 of the affidavit are denied. It is submitted that there is no provision for selecting the place of posting in the Transfer Request Application. The individuals have to apply for transfer under transfer policy in the prescribed proforma. The applicants will be awarded the points as per the service and other criteria under transfer policy guidelines. The proposed vacancies to be filled will be notified and the candidates have to opt for the one of the notified vacancies during the counselling. The higher score earner will be given first choice to select the place of his choice among the notified vacancies for transfer. The petitioner has got more score in his department than others. As per clause 3(c) of the transfer guidelines a teacher who has completed 5 years in a particular city / town as on 1st April of the year shall be compulsorily transferred.

10. The Veterinary Council of India through its D.O.letter No.8-1/2021-VCI/371, dated 28.4.2022 (for College of Veterinary Science, Korutla) has requested the University to ensure that the minimum physical facilities, infrastructure and

manpower as per provisions of the MSVE Regulations, 2016 are provided at the Veterinary Colleges in your state for continuance of recognition of Veterinary Qualification under the provisions of the VCI Act, 1984. Similarly, the VCI through Letter File No.6-2(58)/2020-VCI6113-114, dated 17.2.2022 (for CVSc, Mamnoor, Warangal) has observed that the vacant posts are yet to be filled up by the Board of Management and some deficiencies are yet to be fulfilled. The VCI has requested the University to fulfil the deficiencies immediately at the College and submit a compliance report. There is shortage of staff at College of Veterinary Science, Mamnoor, Warangal (U) district and Korutla, Jagtial district in the department of Livestock Production Management. Even after transfer of Dr.Suresh Rathod, Professor, Department of Livestock Production Management from College of Veterinary Science, Rajendranagar, Hyderabad who has completed more than 5 years at Rajendranagar, sufficient staff is available in the said department viz., out of 5 sanctioned posts (requires details).

11. Only one post of Associate Professor in the department of Livestock Production Management was notified as vacant at College of Veterinary Science, Mamnoor, Warangal (U) District. The post of Associate Professor in the department of Livestock Production Management at College of Veterinary Science, Rajendranagar, Hyderabad to be caused vacant after transfer of Dr.Suresh Rathod, who has completed 5 years of service has not been shown as vacant to be filled through counselling since sufficient staff in the department are available at College of Veterinary Science, Rajendranagar, Hyderabad and the teachers are required at College of Veterinary Science, Mamnoor, Warangal (U) district and at Korutla, Jagtial district in the light of the instruction of the Veterinary Council of India. Even in clause 5 of the said transfer guidelines as indicated in the petition, it is also indicated that to ensure minimum staff as per VCI Guidelines, certain posts may not be notified.

12. The averments in the para 10 of the affidavit are denied. It is respectfully submitted that Krishi Vigyana Kendra is a 100% funded Project of Indian Council of Agricultural Research. The post of Programme Coordinator (Head of the project) of KVK is an administrative post, considered as specialized post as per clause 2(10) of the Transfer Policy Guidelines. In view of the above facts, the post of Programme Coordinator does not come under the purview of transfer policy applicable to teaching faculty. Dr.J.Narsimha, Programme Coordinator, KVK, Mamnoor has completed more than 3 years as head of KVK and therefore he was transferred and posted in the department of Animal Nutrition at College of Veterinary Science, Rajendranagar. And Dr.N.Rajanna, Professor of Livestock Production Management of College of Veterinary Science, Mamnoor was posted as Programme Coordinator, KVK, Mamnoor. These transfers are made on administrative grounds and the transfer guidelines are not applicable as per Clause 2(3) of said guidelines (These guidelines are ONLY for General Transfers which are generally done during the month of April / May / June of every year. These guidelines shall not be applicable for individual transfers done during the year including period of general transfers).

13. It is submitted that there are 54% of vacancies in the veterinary faculty in the University. As against the sanctioned strength of (1) 8 teachers at CVSc, Rajendranagar there are 6 teachers are in position and 2 vacant;

(2) against 7 teaching positions at CVSc, Korutla there are 2 teachers are in position and 5 vacant; (3) against 6 positions at CVSc, Mamnoor there is no teaching staff is in position and all the 6 posts are vacant. The following are the staff of Livestock Production Management at three veterinary colleges:

Staff position of teachers of LPM in Colleges of Veterinary Sciences

Rajendranagar, Hyderabad

Korutla, Jagtial Dt.

Mamnoor,

Warangal (U) dt.

Dr.M.Krishna Kumar, Professor Dr.S.Bindu Madhuri, Professor (CAS)
Dr.Ch.Harikrishna, Professor (CAS) Dr.Suresh Rathod, Professor (CAS) Dr.RMV
Prasad, Professor (CAS)

Dr.K.Vijay, Asst. Professor

Dr.R.Prasanna Kumar,

Professor (CAS) Dr.K.Razia Sultana,

Asst. Professor

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14. It is evident from the above staff position, there is sufficient staff available at College of Veterinary Science, Rajendranagar even after transfer of Dr. Suresh Rathod and there is no staff member at CVSc, Mamnoor, Warangal (U) district. To have the staff at all the colleges, the post to be caused vacant due to transfer of Dr.Suresh Rathod has not been notified as vacant as per Clause 2(5) of transfer policy guidelines and as per VCI guidelines to maintain the minimum staff at all Colleges.

15. The averments in para 11 of the affidavit are denied. The statement of the petitioner that Dr.Suresh Rathod who has completed his tenure of 5 years as Professor, Dept. of LFC, CVSc, Rajendranagar is transferred to the position of Professor from Department of Livestock Production and Management, College of Veterinary Science, Mamnoor instead to the position of the petitioner is not correct. No transfer orders were issued to Dr.Suresh Rathod, Professor of LPM working in the department of Livestock Farm Complex, College of Veterinary Science, Rajendranagar who has completed 5 years of service at that station. Dr.Suresh Rathod who has less score than the petitioner The petitioner has choice to opt vacant post notified at College of Veterinary Science, Mamnoor,

Warangal Dist., since the petitioner has more score than Dr.Suresh Rathod and in turn Dr.Suresh Rathod should left the only option to be posted at the post to be vacated by the petitioner. As per the interim directions of the Hon'ble Court dated 29th June, 2022, the process of counselling for considering the transfer of teachers was kept in abeyance."

8. In reply to the above contentions, the learned counsel for the petitioner submitted that the petitioner is not challenging the transfer order of the officers mentioned in proceedings dt.08.06.2022 but is only challenging the procedure adopted by the official respondents 2 and 3 and therefore, there is no need to make all the officers transferred vide order dt.08.06.2022 as party respondents to the Writ Petition.

9. Having regard to the rival contentions and the material on record, it is noticed that the respondents have issued General Transfer Guidelines vide proceedings No.4436/SC/2015 dt.05.06.2017 on transfer policy to be applied to the Teachers and Scientists of P.V.Narsimha Rao Telangana Veterinary University. As per the said Guidelines, transfer is an incidence of service and the competent authority has the right to transfer any person at any point of time on administrative grounds, administrative exigencies or otherwise and that these Guidelines are applicable only to General Transfers which are generally done during the months of April, May and June of every year and shall not be applicable for individual transfers done during the year including period of general transfers. It is further provided that to ensure that vacant posts are filled up uniformly in all offices and minimum number of persons are available as per Veterinary Council of India ('VCI' in short) Guidelines, Competent authority may, at its discretion, block certain posts in certain offices and subject to these primary conditions, further Guidelines are issued for general transfer of staff. The eligibility to apply for transfer is prescribed under Rule 3 and it is provided that no staff who has not completed three years of service in all posts put together in a department/office of an institute in a city/town as on 1st April of the year shall be transferred except on administrative grounds/exigencies and a person who has completed three years of service in all posts put together in a department/office of an Institute in same city/town as on 1st April of the year, can file a request for transfer and those who have completed five years of service in all posts put together in a department/office of an Institute in same city/town as on 1st April of the year, shall be compulsorily transferred. Rule 5 provides for notifying the vacancies and it is provided that all those positions of the teaching staff who have completed five years of service in all posts put together as on 1st April will be notified as vacant by the committee and will be offered for filling in general transfers by counselling process; and to ensure posting of minimum staff as per VCI guidelines, certain posts may not be notified. It is also provided under Rule 7 that the competent authorities concerned, as per the recommendation of the Counselling Committee, shall issue posting orders to all the staff of one category in one proceedings only, duly enclosing the names of the staff transferred and places of postings on transfer in annexure and Rule 8 provides that the transfer

will be affected as per counselling process. As per Rule 11, certain points shall be given for the special category of persons and one of the categories is the persons whose spouses are working in State Government or Central Government or their Public Sector Undertakings.

10. The learned counsel for the petitioner has pointed out that the respondents have not followed many of the above Guidelines while undertaking General transfers in June, 2022.

11. However, on going through the Guidelines and also the vacancies notified by the respondents for General transfers, it appears that the respondents have not followed their own Guidelines while notifying some of the vacancies available for transfer. This Court agrees with the learned counsel for the respondents that Special Category of posts such as Programme Co-ordinator are excluded from general transfers and transfer orders in such cases can be given individually and the transfer order dt.08.06.2022 is with regard to such a specialized post and hence cannot be set aside and also for the reason that the affected parties therein have not been made as party respondents to this Writ Petition. As regards non-notifying the vacancy of Dr. Suresh Rathod, who has completed 5 years at the College of Veterinary Science, Rajendernagar, this Court finds that since there were sufficient Professors at Rajendernagar even after his transfer and there were no Professors at Mamnoor, Warangal, the respondents were justified in not notifying the said vacancy.

12. Therefore, this Court deems it fit and proper to vacate the stay granted by this Court earlier and direct the respondents to complete the transfers by strictly following the Transfer Guidelines by notifying all the posts which fall vacant on completion of the mandatory service of 5 years by the respective officers (except in the circumstances pointed out in the Guidelines) and thereafter, shall consider the application of the petitioner as well in accordance with those Guidelines and pass composite and single transfer order for each category of officers.

13. In the result,

(i) I.A.No.4 of 2022 is allowed;

(ii) With the above directions, the Writ Petition is disposed of. No order as to costs.

14. Pending miscellaneous petitions, if any, in this Writ Petition shall stand closed.