
(2019) 02 RAJ CK 0045
In the Rajasthan High Court
Case No : Civil Writ No. 14181 Of 2018

Manglesh Rajawat

APPELLANT

Vs

State Of Rajasthan And Ors

RESPONDENT

Date of Decision : 06-02-2019

Acts Referred:

Citation : (2019) 02 RAJ CK 0045

Hon'ble Judges : Arun Bhansali, J

Bench : Single Bench

Advocate : Laxman Singh Jodha, R.R. Kanwar

Final Decision : Disposed off

Judgement

This writ petition has been filed by the petitioner aggrieved against the conditions no.10 & 16 in the order dated 31.5.2018 (Annex.P/10), whereby, though the petitioner was transferred from Panchayat Samiti, Bhinder, Udaipur to Bangali Basti, Kota City, on account of the condition that an employee who has been transferred from TSP to Non-TSP area, shall not be relieved and would not be permitted to join, she has not been relieved.

It is inter alia indicated in the writ petition that the petitioner was serving at Panchayat Samiti, Bhinder, Udaipur, since the year 2007, the said area was a Non-TSP area, however, by gazette notification dated 19.5.2018, the area of Panchayat Samiti, Bhinder, Udaipur was included in TSP area.

As the petitioner on account of her family circumstances wanted transfer from Panchayat Samiti Bhinder to Kota, on her request, she was transferred to Kota by order dated 31.5.2018, however, on account of stipulation made in the order regarding not relieving the employees, who have been transferred from TSP to Non-TSP area, the petitioner was not relieved.

Feeling aggrieved, the petitioner approached this Court by filing S.B. Civil Writ Petition No.8292/2018 (Annex.P/12), whereby, the writ petition filed by the

petitioner was disposed of with liberty to file a representation before the respondents and the respondents were required to decide the same within the time granted by the Court.

The representation made by the petitioner was initially not decided and, therefore, the petitioner filed the present writ petition. During pendency of the writ petition, by order dated 3.10.2018, the representation made by the petitioner was rejected based on Circular dated 1.6.2018, whereby, transfer from TSP to Non-TSP area was banned.

It is inter alia submitted by learned counsel for the petitioner that the area of the petitioner where she was serving, was a Non-TSP area, which on account of the notification dated 19.5.2018 came within the TSP area. Whereafter, as required by The Rajasthan Scheduled Areas Subordinate, Ministerial and Class-IV Service (Recruitment and Other Service Conditions) Rules, 2014 ('the Rules of 2014'), the petitioner gave her option for not serving within TSP area and, therefore, the stipulation made in the order could not be applied to the petitioner.

Further submissions have been made that qua the same order dated 31.5.2018 (Annex.10), similarly situated candidates approached the Rajasthan Civil Services Appellate Tribunal, and their appeals were allowed by the Tribunal. Qua the said decision of the Tribunal, the empowered committee of the State by its decision dated 12.12.2018 (Annex.P/16) decided to implement the directions of the Tribunal and in fact the order dated 20.12.2018 in this regard has been issued implementing the order of the Tribunal, whereby, candidates have been permitted to be relieved / join from TSP to Non-TSP area.

Learned counsel appearing for the respondent - State submitted that as per the directions of Department of Personnel, whereby, it has specifically stipulated regarding non-permitting of transfer of employees from TSP to Non-TSP area, the stipulation was made in the order transferring the petitioner and consequently, the representation was also rejected. However, it is not disputed that similarly situated candidates have been granted relief by the Tribunal which directions have been accepted and implemented by the respondents.

I have considered the submissions made by learned counsel for the parties and have perused the material available on record.

A perusal of the decision taken by the empowered committee pertaining to implementation of the order passed by the Tribunal, reveals that it has decided that those employees who have given option for serving in the Non-TSP area may be relieved pursuant to the orders of transfer.

Admittedly, the petitioner has given her option to serve in the non-TSP area, which has been placed on record as Annex.P/14. Further by the order of transfer, she has been transferred from Panchayat Samiti, Bhinder to Kota City, which is from TSP to Non-TSP area and, therefore, the denial of respondents to relieve the petitioner cannot be sustained. As such the respondents in the present

circumstances of the case are directed to implement the order of transfer of the petitioner dated 31.5.2018 (Annex.P/10).

As the petitioner sought transfer to Kota City on account of her personal difficulties, in case, the school where the petitioner has been transferred, the post has been filled, she may be accorded posting at some other school within Kota City.

Needful be done by the respondents within a period of four weeks from today.

With the above directions, the writ petition filed by the petitioner stands disposed of.