

**THE HON'BLE SRI JUSTICE K.SARATH**

**I.A.Nos.1 of 2023**

**In**

**WRIT PETITION Nos.**

2362, 2459, 2460, 2464, 2467, 2469, 2470, 2474, 2475, 2477,  
2480, 2481, 2482, 2486, 2487, 2488, 2491, 2492, 2495, 2502,  
2503, 2504, 2513, 2515, 2543, 2546, 2550, 2563, 2567, 2575,  
2579, 2587, 2601, 2624, 2657, 2802, 2812, 2822, 2869, 2901,  
2914, 2927, 2977, 2980, 2552, 2568, 2570, 2571, 2602, 2982,  
3025, 3040, 3049, 3126, 3174 and 3176 of 2023

**COMMON ORDER**

In all these matters the petitioners are questioning the action of the respondents in not allowing them to participate in the transfer counselling or subjected to compulsory transfer in the ensuing transfers Counselling in pursuance to the Telangana Teachers (Regulation of Transfers) Rule, 2023 issued in G.O.Ms.No.5, School Education (Services.II) Department dated 25.01.2023.

2. All these matters are in two categories viz., A & B;

**Category-A cases**

The teachers, who were allotted to new local cadres in pursuance to G.O.Ms.No.317, General Administration (SPF-I) Department, dated 06.12.2021 and posted to other districts, requesting to consider their services in their previous station so as to enable them to participate in the ongoing Teacher Transfer Counselling, 2023 as per Sub-Rule-3 of Rule-5 of the Telangana Teachers (Regulation of Transfers) Rules, 2023.

**Category-B cases**

The teachers who allotted to new local cadre but retained in their previous places of working since their local cadres is not changed in pursuance to G.O.Ms.No.317, General Administration (SPF-I) Department dated 06.12.2021, requested to count their services from December, 2021/January, 2022 only and not to subject them as compulsory transfers.

**3. Submissions of the both sides:**

Heard Sri M.Surender Rao, Learned Senior Counsel appearing for Srinivasa Rao Madiraju, Sri M.Ram Gopal Rao, Sri D.Bala Kishan Rao, Sri P.Ramasharana Sharma, Sri K.Narayana, Sri Prudvi Raj Mandoori, Sri P.Venkateswar Rao, Sri C. Raja Shekar Reddy, Sri Krishna Kishore Kovvuri and Sri P.Ugneder Reddy, learned Counsel appearing for the petitioners.

Heard Sri Andepalli Sanjeev Kumar, Special Government Pleader for Additional Advocate-General appearing for the Respondents.

4. Learned Counsel appearing for the petitioners submits that the Government of Telangana formulated the Schemes of organization of local cadres in the Government Schools under School Education Department in G.O.Ms.No.255 dated 27.08.2021 and

similarly formulating schemes for organization of local cadres in ZPP School under School Education Department issued G.O.Ms.No.256 dated 27.08.2021 and the posts of School Assistants, Language Pandit Grade.II, Secondary Grade Teachers were organized into District. The Gazetted Head Masters Grade-I and II were organized into Multi-Zonal Cadre. Thereafter the Government issued guidelines for allotment of employees in the State including the Education Department in G.O.Ms.No.317, General Administration Department dated 06.12.2021. Accordingly the petitioners were allotted to new District/new cadre. In view of the circular Memo No.1655/SPF.I/2021-7 dated 23.12.2021 the teachers who were allotted to the same district allowed to continue in the same places and the teachers who were allotted to the new district were posted in the existing vacancies as on that date without any counselling.

5. The learned Counsel for the petitioners submits that the entire exercise was completed in the month of December, 2021 and consequential posting orders were issued in the month of January and February, 2022 with a condition that their allocation was the time being arrangement and orally informed that they will be allowed to participate in the transfer conselling along with others as was done on earlier occasions. The teachers who were allotted to new district have deprived of better places and they were posted to remote places from the headquarters/boarder of other States. On the other hand their juniors/counter parts were retained in the same place as per their option, as such they are completed two years of service and some of them have completed 8 to 10 years of service.

6. The learned Counsel for the petitioners further submits that now the Government has issued the

Telangana Teachers (Regulations of Transfer) Rules, 2023 issued in G.O.Ms.No.5, School Education (Ser.II) Department dated 25.01.2023. As per Sub-Rule-1 of Rule-5 the said Rules i.e. Criteria for Transfer and Postings, the maximum service for compulsory transfer for Head Master/Head Mistress Grade-II (Gazetted) is 5 years in a particular school as on 01.02.2023; and for the teachers, eight years in a particular school as on 01.02.2023. As per Sub-Rule (3) of Rule 5, the all the Head Masters/Head Mistress Gr.II (Gazetted), Teachers who have completed a minimum period of two years service in a category of post in a school as on 01.02.2023 shall be eligible to apply for transfer. But all the petitioners are working in the present places from January/February, 2022 onwards and no one completed two years service in the present place of working. The petitioners were deprived of participating in the transfer counseling without taking into account of their earlier service before their allotment as per

G.O.Ms.No.317 dated 06.12.2021. Guideline No.3 of Circular Memo No.1655/SPF.1/2021-7 dated 23.12.2021 fell for consideration in W.P.No.857 of 2022 and this Court after hearing both sides has been passed elaborate interim orders and suspended the operation of the Guideline No.3 of the said circular Memo dated 09.02.2021.

7. Learned Counsel for the petitioners further submits that the allotment and posting of the petitioners in the present station was not on their request and the allotment and postings were done by force consequent of organization of local cadre on administrative grounds. In the circular Memo No.1655/SPF.1/2021-7 dated 23.12.2021 in clause-3 it is clearly stated that an employee who allotted in the same local cadre and continued in the same place and the respondents cannot deprive the petitioners from participating in the transferring counselling.

8. The learned Counsel appearing for the petitioners brought to the notice of this court that in the composite State of Andhra Pradesh, when the then Government issued G.O.Ms.No.610 allotting the teachers as per their nativity in the year 2007 in implementation of earlier Presidential Order and in the subsequent transfer counseling, the teachers who were transferred as per G.O.Ms.No.610 permitted to participate in the transfers counseling based on their service rendered in the previous district and school/station, and given entitlement points issued by the then Commissioner and Director of School Education of Andhra Pradesh in RC No.1671/D1-3/2009 dated 04.07.2009. The G.O.Ms.No.610 was issued in implementation of the Presidential Order, 1975, and the G.O.Ms.No.317 was also issued for implementation of the new Presidential Order, 2018 for the State of Telangana. The respondents have to take



into account of the earlier procedure and permit the petitioners to participate in the transfer counselling.

In the transfer counselling the respondents have given entitlement points for preparing the seniority list basing on their past service and also service in the present place/school.

9. The Learned Counsel for the petitioners further submits that earlier the Government issued similar Rules i.e. the Telangana Teachers (Regulation of Transfers) Rules, 2015 in G.O.Ms.No.12, School Education (Ser.II) Department dated 16.06.2015 and in Sub-Rule-4 of Rule-5 of the said Rules, mentioned that the Head Masters Gr.II (Gazetted)/Teachers shifted under Rationalization also permitted to participate in the transfer counseling with service rendered earlier station. Now the petitioners also similarly situated transferred from one unit of appointment to another unit of appointment on

administrative grounds. In view of the same the petitioners also entitled to participate in the transfer counseling.

10. Learned Counsel appearing for the petitioners submits that, the allotment of the new places by the respondents in 2021 was not taken into account as transfers, the same was done on administrative grounds. As per 35 (a) of Telangana State and Subordinate Rules, 1996 the seniority of a Member of service, class or category transferred from one unit of appointment to another unit of appointment, on administrative grounds, shall be, determined with reference to the date of seniority of such member in the former unit.

11. The Learned Counsel appearing for the petitioners submits that, as per Rule 5 (3) of G.O.Ms.No.5, dated 25.01.2023, issued by the Government, the respondents have to count the

minimum period of two years of service in a category post in a school as on 01.02.2023 and all the petitioners are working in the same category since long time and the petitioners are entitled to participate in the transfer counseling and requested to pass appropriate interim orders.

12. The learned Counsel for the petitioners in category-B cases submits that nonetheless in which the petitioners are working cannot be regarded as a School in the erstwhile composite District. The schools in which the petitioners were allowed to continue in a school in new District and it shall be so treated. Therefore the services of the petitioners for the purpose of transfer shall be considered to have commenced only from the date of their allotment to present District. The petitioners have put in hardly one year one month service by 01.02.2023 and they have not completed two years service for making them eligible to

participate in counselling. The services rendered by the petitioners in the school in erstwhile composite district cannot be counted for the purpose of treating the petitioners as liable to be transferred under Sub-Rule-1 of Rule-5 of the Rules issued in G.O.Ms.No.5 dated 25.01.2021 and similarly the post held by them cannot be treated as a vacancy in terms of Rule-9 of the said Rules and this is especially in view of the interim orders passed by this Court in W.P.No.857 of 2022 on 09.02.2022.

13. The learned Counsel for the petitioners further submits that the Government issued circular Memo No.1655/SPF-1/2021-7 dated 23.12.2021 seeking to give clarification or further guidelines in the matter of allotments and posting and legality of the said Memo and especially Clause-3 thereof fell for consideration in W.P.No.857/2022 and this Court passed an elaborate

interim order on 09.02.22 and the same is in force and requested to pass appropriate interim orders.

14. Sri Andepalli Sanjeev Kumar, Learned Special Government Pleader for Additional Advocate-General, appearing for the respondents submitted written submissions and submits that the present writ petitions are not maintainable either on facts or on law. The transfer is an incident of service, no employee has a right to either say that he should be transfer or not and it is the sole discretion and right of the pay master. The petitioners have not made out any *prima facie* case to pass interim orders in their favour.

15. The State has come up with the present transfer policy for better administration of the Schools and in the interest of the student community at large. In view of the new Presidential Order, 2018 the State has come with G.O.Ms.No.317, General Administration

Department, dated 06.12.2021 proposing to reallocate all the employees including in the Education Department. The claim of the petitioners that their services rendered in the previous local cadre i.e. prior to 06.12.2021 shall be reckoned for the purpose of counting two years period i.e. they become eligible to exercise the option for transfer cannot be considered for the reason that the District is a unit for the purpose of appointment for the cadre of teachers. Once the petitioners are allocated to a new local cadre as per the Presidential order of 2018, they become the employees of the new local cadre for the purpose transfer and promotion, however, their services in the previous local cadre will be protected and taken into consideration for all purposes in terms of Rule 35 (a) of State and Subordinate Service Rule, 1996 and the same cannot be taken into consideration for the purpose of transfer. The sole criterion for affecting the transfer is only longstanding at a particular place of

the teachers. Whether one employee is a junior or senior in the cadre/category is immaterial and would not play any role and if the claim of the petitioners is accepted the State has no option, except to transfer all the 1,03,000 teachers which is not required and uncalled.

16. The learned Special Government Pleader submitted with regard to Category-B cases, the Government has made it clear while allotting the petitioners to their previous local cadre that their allotment cannot be considered as fresh allotment. If the petitioners' contention is accepted and their services are counted only from January, 2022 there would be zero transfers in near future and would not be in the interest of better administration of the Department and the interest of student community at large. Therefore, the State cannot be denied of its right and discretion to extract services form an

employee duly posting in a place where the best service is derived, which should be left to the pay master, and requested to dismiss all the writ petitioners.

**Findings:**

**Category-A Cases**

17. After hearing the both sides and on perusing the material submitted by the both sides, this Court is of the considered view that the respondents in pursuance of the G.O.Ms.No.317, General Administration Department DATED 06.12.2021 and as per clause-3 of Circular Memo No.1665/SPF.I/2021-7 dated 23.12.2021 the teachers who were allotted to the same local cadre in the district, retained in the same place without issuing fresh posting orders, whereas the teachers, who were allotted to other Districts, posted in the left over vacancies in the said Unit/District. Earlier, on two occasions, when the teachers were transferred/shifted under the guise of implementation of G.O.Ms.No.610 and rationalisation and in the



subsequent counselling i.e. in the year 2009 and 2015 respectively given the benefit of service rendered in the previous district/school and also relaxed the rule of two years of minimum service and counted the service rendered in the previous district and also school/station for awarding entitlement points.

18. This Court perused the Counter filed by the respondents in W.P.No.857 of 2022, wherein at Para No.10 and 11 as follows:

10. xxx xxx In fact the petitioners are in advantageous position having regard to their Seniority/options and having been retained in the original local area, there is no requirement of again issuing fresh posting orders in as much as Cluase-3 and Clause 4 of the Circular Memo dated 23.12.2021 makes it very clear that it should be deemed that they have already been **issued posting orders, for the time being.**

11. xxx xxx The petitioners have misunderstood the entire action under G.O.Ms.No.317,General Administration (SPF-I) Department and Circular Memo dated 23.12.2021 in as much as these two proceedings were only issued towards reorganization of the local areas and posting of Employees in the newly organized local areas having regard to the cadre strength so fixed. **This is not a transfer counselling at all, therefore, the petitioners cannot have any grievance at all. However, as and when there is a periodical transfer counseling for the Teachers, the claim of the petitioners will be certainly considered by the State”.**

19. It is clearly shows that the respondents were admitted that the teachers, who were continued in the same place, have in advantageous position having regard to their seniority/options and having been retained in the original local area and also mentioned that the said arrangement was time being and the same was not transfer counselling at all.

20. There is a force in the contention raised by the petitioners that the teachers who were allotted to new district have deprived of better places and they were posted to remote places from the headquarters/boarder of other State. On the other hand their juniors/counter parts were retained in the same place as per their option, as such they are completed two years of service and some of them have completed 8 to 10 years of service and now they only eligible for participating in the transfer counseling.

21. The respondents cannot discriminate the teachers who are continuing in the same place after allotment of new cadre and the teachers who were posted in new places. The action of the respondents in not permitting the petitioners to participate in the transfers counseling is discriminatory and arbitrary.

22. The contention of the respondents that if the petitioners are permitted to participate in present

transfer counselling all the teachers are to be effected in the transfers is a mere presumption and on that ground the respondents cannot give advantage to some set of teachers and discriminate others on the guise of orders issued as a policy of the Government.

23. Moreover, in two occasions i.e. in 2009 and 2015 when the teachers were transferred/shifted in view of the implantation of G.O.Ms.No.610 and rationalization given the benefit of counting earlier service rendered in the previous district and school/station for awarding entitlement points. The said benefit has to be extended to the petitioners in the Category-A cases as was done in the transfer counselling held in composite State of Andhra Pradesh in the year 2009 and in the State of Telangana in the year 2015.

**Category-B cases**

24. In respect of the petitioners in Category-B this Court observed that at the time of allotment of the petitioners to their local cadre, they continued in the same place, which was opted by them in earlier transfer counselling. The petitioners, who are continuing more than eight years in a particular place now cannot take advantage of the interim orders passed in W.P.No.857 of 2022 dated 09.02.2022. Therefore, the contention raised by the petitioners in Category-B cases cannot be accepted and the same is rejected, and accordingly, no interim relief is to be granted in respect of the petitioners in B-Category cases.

**Directions:**

25. In view of the above finding the respondents are directed to permit the petitioners, who were allotted to new local cadres in pursuance to G.O.Ms.No.317, General Administration (SPF-I) Department, dated

06.12.2021 and posted to other districts, and also similarly situated teachers to participate in the ensuing transfer counselling schedule issued as per G.O.Ms.No.5, School Education (Service-II) Department dated 25.01.2023 by awarding entitlement points to their services rendered at previous school/stations.

The respondents are further directed to reschedule the transfers/promotions counselling which has been scheduled from 27.01.2023 to 19.03.2023 within one week from today.

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**JUSTICE K.SARATH**

Date:06.02.2023

Cc by today  
b/o  
trr