

**HIGH COURT FOR THE STATE OF TELANGANA  
AT HYDERABAD**

**TUESDAY, THE TWENTY SECOND DAY OF APRIL  
TWO THOUSAND AND TWENTY FIVE**

**PRESENT**

**THE HONOURABLE THE ACTING CHIEF JUSTICE SUJOY PAUL  
AND  
THE HONOURABLE SMT JUSTICE RENUKA YARA**

**WRIT APPEAL NO: 455 OF 2025**

Writ Appeal under clause 15 of the Letters Patent preferred against the Order dated 17/04/2025 in W. P. No. 19339 of 2024. on the file of the High Court.

**Between:**

Dr. A. Vijayalakshmi, W/o. Sri. G. Yugandhar Aged about 56 years, Occ. Professor (Pediatrics) at Nilofur hospital, R/o. Bathkammakunta, New Nallakunta, Amberpet, Hyderabad.

**...PETITIONER/APPELLANT**

**AND**

1. The State of Telangana, Rep by its Principal Secretary, Finance Department, Secretary Building, Hyderabad.
2. The State of Telangana, Rep. by its Principal Secretary, Dept. of Medical and Health, Govt of Telangana Secretary Building, Hyderabad.
3. The State of Telangana, Rep. by its Joint Secretary, Dept. Medical and Health, Govt of Telangana, Secretary Building, Hyderabad.
4. The Directorate of Medical Education Govt. of Telangana, Rep by its Director, Koti, Hyderabad.
5. Osmania Medical College, Rep by its Principal, Koti Hyderabad.
6. Nilofur Hospital, Rep by Superintendent, Red Hills, Hyderabad.

**....RESPONDENTS/RESPONDENTS**

7. Dr R Vinod Kumar, S/o. Unknown, Aged. unknown, Occ. Professor at Nilouferhospital, President of Telangana Doctors Association Hyderabad

**...RESPONDENTS**

**IA NO: 1 OF 2025**

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the Respondents to continue the Appellant at the present place of posting i.e., Niloufer Hospital, Red hills and not to give effect to any transfer order if any issued, pending disposal of the present Writ Appeal

**Counsel for the Appellant: SRI. R. ANURAG**

**Counsel for the Respondent Nos. 1to5: SRI ANURAG BAJPAI AGP FOR  
THE ADDITIONAL ADVOCATE GENERAL**

**Counsel for the Respondent Nos. 6&7: SRI A. SANJEEV KUMAR**

**The Court made the following: ORDER**

**THE HON'BLE THE ACTING CHIEF JUSTICE SUJOY PAUL  
AND  
THE HON'BLE SMT. JUSTICE RENUKA YARA**

**WRIT APPEAL No.455 of 2025**

**JUDGMENT** *(Per the Hon'ble the Acting Chief Justice Sujoy Paul):*

Sri R. Anurag, learned counsel for the appellant/writ petitioner and Sri Anurag bajpai, learned Assistant Government Pleader attached to the office of the learned Additional Advocate General, for respondent Nos.1 to 4.

2. Heard on admission.

3. This *intra-court* appeal assails the order dated 17.04.2025 passed by a learned Single Judge of this Court in W.P.No.19339 of 2024. Even before issuance of any transfer order, the writ petition was filed to not to effect the transfer of the appellant as per counseling conducted on 18.07.2024 and sought for a declaration that the conduct of process of transfer, including counselling etc., of the appellant as bad, arbitrary and violative of certain provisions of the Constitution.

4. Admittedly, the appellant remained posted at Hyderabad for more than six years two months. Learned counsel for the appellant submits that the transfers are governed by G.O.Ms.No.80, dated 03.07.2024. Clause 7 of the said G.O. deals with "procedure for

transfer". By placing reliance on clause 7(ii) and (viii) of the said G.O., it is submitted that these provisions were grossly violated. By placing reliance on the judgments of the Supreme Court in **P. Mohan Reddy v. E.A.A. Charles**<sup>1</sup>, **Prabir Banerjee v. Union of India**<sup>2</sup> and **Ms X v. Registrar General, High Court of Madhya Pradesh**<sup>3</sup>, it is submitted that even the executive instructions are binding in the matter of transfers and in violation of even executive instructions, transfer order can be interfered with. In addition, it is submitted that there are other procedural violations in the matter of transfer.

5. The other side opposed the prayer and supported the impugned order.

6. This is trite that transfer is an incident of service. Where employees' services are required, decision about that is the prerogative of the employer. In other words, employer is the best judge to decide where the services of an employee are to be utilized. The appellant admittedly remained posted in Hyderabad for six years two months.

7. In view of catena of judgments of the Supreme Court, this is trite that transfer order can be interfered with if it runs contrary to any statutory provision (not policy guidelines/executive instructions), changes service condition of an employee to his/her detriment, passed

---

<sup>1</sup> (2001) 4 SCC 433

<sup>2</sup> (2007) 8 SCC 793

<sup>3</sup> (2022) 14 SCC 187

by an incompetent authority or proved to be *mala fide*. In the instant case, none of these ingredients are available (See Shipli Bose (Mrs) v. State of Bihar<sup>4</sup>, Union of India v. S.L.Abbas<sup>5</sup>, Rajendra Roy v. Union of India<sup>6</sup>, State of U.P. v. Gobardhan Lal<sup>7</sup> and Pubi Lombi v. The State of Arunachal Pradesh<sup>8</sup>).

8. So far the judgment of the Supreme Court in **P. Mohan Reddy** (supra) is concerned, the matter relates to seniority. This is trite that in service law, if recruitment/promotion Rules are silent or there exists a vacuum, the same can be filled up by executive instructions. Thus, an executive instruction in the matter of seniority which became subject matter of adjudication in **P. Mohan Reddy** (supra) cannot be stretched to make it applicable in cases of transfer. Thus, judgment of **P. Mohan Reddy** (supra) is of no assistance to the appellant.

9. The next reliance of learned counsel for the appellant was placed on the judgment of the Supreme Court in **Prabir Banerjee** (supra). Heavy reliance is placed on paragraph No.22 of the said judgment which reads thus:

**“22.** No doubt transfer is an incident of service in an all-India service and under the Central Service Rules the controlling authority was competent to transfer the

---

<sup>4</sup> 1991 Supp (2) SCC 659

<sup>5</sup> (1993) 4 SCC 357

<sup>6</sup> (1993) 1 SCC 148

<sup>7</sup> (2004) 11 SCC 402

<sup>8</sup> 2024 SCC OnLine SC 279

petitioner to any place in India, where it considered expedient to do so. But apart from the above, we also have to take into consideration the decision of the Central Board of Excise and Customs in its communication dated 24-8-1984 by which pending decision on the demand for bifurcation of Group 'B' and 'C' cadres relating to Nagpur and Indore Collectorates the Board took a decision that cadre control of the said two Collectorates would be distributed between the two Collectors as indicated in the said communication. As mentioned hereinabove, while the Collector of Central Excise, Nagpur, was made the Cadre Controlling Authority of Group 'B' and 'C' ministerial cadres, the Collector of Central Excise, Indore was made the Cadre Controlling Authority of executive cadres of Group 'B' and 'C'. We are alive to the fact that the decision taken by the Board was an administrative decision, but in the absence of any direct rule relating to transfer between two Collectorates under the Central Board of Excise and Customs, the said administrative instruction would have to be implemented insofar as inter-Collectorate transfers between the Nagpur and Indore Collectorates was concerned. In fact, by subsequent Circular dated 16-1-2003 the Board further declared that the Chief Commissioner of Central Excise/Customs in a Commissionerate would be the Cadre Controlling Authority up to Group 'B'-level staff, and its functions would include monitoring the implementation of the Board's instructions with regard to the transfers and equitable distribution of manpower and material resources between the Commissionerates/zones."

(Emphasis supplied)

10. A microscopic reading of aforesaid paragraph makes it clear that the cadres were distributed between the zones by an administrative decision. Thus, transferring a person from one cadre to another cadre contrary to such administrative decision, could not be countenanced. In this backdrop, the judgment of **Prabir Banerjee** (supra) was delivered. In the instant case, it is not the argument of learned counsel for the appellant that the respondents are incompetent to transfer the appellant or transfer will change her

service conditions. Thus, this judgment is of no assistance to the appellant.

11. So far the judgment of **Ms X** (supra) is concerned, it was delivered in the peculiar facts of the said case and the same cannot be pressed into service in the instant case.

12. In the absence of pointing out any such ingredients, on which interference can be made, admission is declined.

13. Accordingly, this Writ Appeal is **dismissed**. No costs.

Interlocutory applications, if any pending, shall also stand closed.

//TRUE COPY//

SD/-I.NAGALAKSHMI  
JOINT REGISTRAR

SECTION OFFICER

To,

1. One CC to SRI. R. ANURAG, Advocate [OPUC]
2. Two CCs to THE ADDITIONAL ADVOCATE GENERAL High Court for the State of Telangana, at Hyderabad [OUT]
3. One CC to SRI. A. SANJEEV KUMAR, Advocate [OPUC]
4. Two CD Copies

B M  
LS

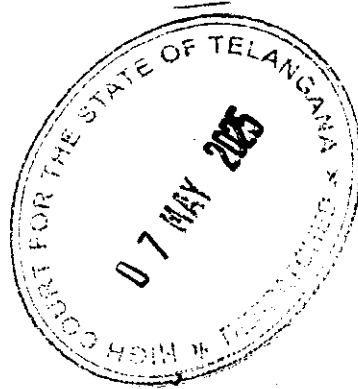
*[Handwritten signature]*

**HIGH COURT**

**DATED:22/04/2025**

**JUDGMENT**

**WA.No.455 of 2025**



**DISMISSING THE WRIT APPEAL WITHOUT COSTS**

⑦

*Kpr*  
29/4/25