

(2013) 08 KAR CK 0157

In the Karnataka High Court

Case No : Writ Petition No. 34081 of 2013 (S-KAT)

Banu Beerappa Harikantra

APPELLANT

Vs

State of Karnataka and Others

RESPONDENT

Date of Decision : 23-08-2013

Acts Referred:

Citation : (2014) 3 AKR 181 : (2014) 2 KarLJ 242

Hon'ble Judges : Vegi Suri Appa Rao, J;N. Kumar, J

Bench : Division Bench

Judgement

N. Kumar, J.—Learned Government Advocate is directed to take notice for respondents 1 to 4. This writ petition is filed challenging the order passed by the Karnataka Administrative Tribunal declining to interfere with the order of transfer of the petitioner to Raichur.

2. The petitioner is working as a Gazetted Manager at the Office of the Deputy Conservator of Forest, Yellapur Division, Yellapur from 12-8-2010. The 2nd respondent passed an order dated 28-6-2013 transferring him to the Office of the Chief Conservator of Forests, Raichur Division before the expiry of his period, from the date he took charge at Yellapur. The 5th respondent has been posted in his place at Yellapur. Challenging the said order of transfer, the petitioner approached the Karnataka Administrative Tribunal. The Tribunal granted an interim order of stay. Subsequently the impugned order came to be passed, on the ground that the petitioner has completed his term at Yellapur as on 12-8-2013 and therefore, he cannot insist that it should be continued any further. Aggrieved by the said order, the writ petition is filed.

3. The learned Counsel appearing for the petitioner submits that though he completed thirteen years of service as on 12-8-2010, he has got hardly 1 1/2 years time to attain the age of superannuation. In these circumstances, he is entitled to stay in the said place as is clear from the circular issued by the Government as per Annexure-A1 and therefore, he submits that he ought to have been continued and the order of transfer is bad.

4. The said circular enables the authorities to continue an employee if, they choose to do so after the expiry of the period prescribed for the tenure of a Government Official. They are not bound to do so. It all depends on the facts of the case and the circumstances under which the Government employee is placed. Therefore, it cannot be said that the petitioner, as a matter of right is entitled to continue in the said place till he attains the age of superannuation, in that view of the matter, we do not see any merit in this writ petition. Even now it is open to the petitioner to make a representation to the authorities bringing to their notice the fact of his superannuation within 1 1/2 years and also the fact that his wife is suffering from mental ailment and mother is 80 years old and he himself is suffering from diabetes and that as his wife is now taking treatment at Shimoga, he could be accommodated in a nearby place.

If such a representation is given, the authorities shall consider his representation liberally taking into consideration his service to the Institution.

Petition is disposed of accordingly.

Learned Government Advocate is permitted to file memo of appearance within four weeks.