
(2006) 06 KAR CK 0020
In the Karnataka High Court
Case No : Writ Petition No. 6650 of 2006

C. Channegowda

APPELLANT

Vs

The State of Karnataka and Sreeramareddy

RESPONDENT

Date of Decision : 22-06-2006

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2006) 06 KAR CK 0020

Hon'ble Judges : R. Gururajan, J;Jawad Rahim, J

Bench : Division Bench

Advocate : Revivarma Kumar, for Sri. J. Prashanth, for the Appellant; P.N. Nanja Reddy, for R3, for the Respondent

Final Decision : Dismissed

Judgement

R. Gururajan, J.—This petition is by Sri. Channegowda challenging the order of the Karnataka Administrative Tribunal passed in Application No. 6212/2005 dated 10.5.2006.

2. The petitioner was working as a Village Accountant. He was eligible for promotion to the post of Revenue Inspector. He was promoted along with others. In the promotion order, the name of Sri. Sreeramareddy, the 3rd respondent is shown at Sl. No. 22. The petitioner on promotion was posted to the office of the Rent Controller, Bangalore. The post to which the petitioner was posted is not vacant and hence he was not relieved from his duties. In the meanwhile, in the general transfer for the year 2005-06, transfers were effected, in that, the said posting of the petitioner to the office of the Rent Controller was cancelled and he was posted to Sarakki Circle in place of the 3rd respondent. In the official memorandum, a reference is made to the Government Orders dated 22.11.2001, 2.5.2005, 14.6.2005 and 30.6.2005. The Government order dated 30.6.2005 was issued in respect of transfer of 2005-06. Premature transfers were effected within 30.6.2005. They require the approval of the concerned Minister. The present order was passed in consonance with the Government order dated

30.6.2005 to transfer the 3rd respondent, Sri. Sreeramareddy. The 3rd respondent challenged the order dated 30.6.2005 by way of an application in application No. 4915/2005. Status quo order was granted. The Tribunal, thereafter by an order dated 13.7.2005 disposed of the application with a direction to the 2nd respondent to consider the review application filed by the 3rd respondent and also the objections to be filed by the petitioner in the matter. The 2nd respondent considered the review application filed by the 3rd respondent. He confirmed the earlier order dated 30.6.2005 and issued a consequential official memorandum dated 30.7.2005. That was challenged in application No. 6212/2005. Notice was issued. Parties entered appearance. Statement was filed. After hearing, the Tribunal has chosen to allow the application in application No. 6212/2005. The Tribunal has chosen to set aside the order dated 30.6.2005 and the consequential order dated 30.7.2005 in the impugned order. This order is challenged by the petitioner in this petition by raising several grounds.

3. Sri. Ravivarma Kumar, learned Senior Counsel appears for the petitioner and he argues that the material on record would support the action of the Government and it is in accordance with law. He would refer to us the various materials on record to say that the Tribunal has committed a serious error in interfering with the order of transfer in the case on hand. According to the learned Counsel, the order is in public interest and the said public interest transfer orders are not to be interfered with under Article 226 of the Constitution of India. He would place reliance on AIR 1981 SC 1577 and also the order of the Supreme Court reported in State of U.P. and Others Vs. Siya Ram and Another, .

4. After hearing, we have carefully seen the material on record.

5. The 3rd respondent, Sri. Sreeramareddy earlier filed an application and that application was allowed by way of a direction to review the earlier order dated 30.6.2005. After review, the authorities have once again confirmed and a consequential order has been passed. That was challenged in the present application. The Tribunal has chosen to call for records and has looked into the material on record in the case on hand. The Tribunal has chosen to provide chronological details at page 213 of the paper book. The chronology would show that Sreerama Reddy was posted as Revenue Inspector w.e.f. 12.6.2003. The petitioner-Channegowda was promoted on 16.6.2005 and posted as Revenue Inspector, HRC Circle, Bangalore. On 18.6.2005, the Assistant Commissioner wrote to the Deputy Commissioner that there exists no vacancy to accommodate the petitioner. On 17.6.2005, the then Primary and Secondary Education Minister sends a note to the Revenue Minister to modify the order of transfer of the petitioner and to post him as Revenue Inspector, Bangalore and to post as Revenue Inspector, Sarakki Circle in place of the contesting respondent on the ground that the petitioner has some family problem. On 20.6.2005, the Revenue Minister endorses as follows on the note of the Education Minister:

On 20.6.2005, the Secretary to Chief Minister sends a note to the Revenue

Secretary along with the note of Education Minister to take necessary action as requested by the Education Minister. On 30.6.2005, the Under Secretary, Revenue Department wrote to the Deputy Commissioner, Bangalore that the Government has directed the Deputy Commissioner to transfer the petitioner as Revenue Inspector, Sarakki Circle. On 30.6.2005, the petitioner was posted in place of 3rd respondent. On 7.7.2005, the Revenue Secretary obtained post-facto approval of Revenue Minister on file for having issued direction to the Deputy Commissioner, Bangalore to transfer the 3rd respondent in place of the 3rd respondent. On 25.7.2005, one of the MLAs wrote to the Revenue Minister to continue the petitioner at Sarakki Circle. On 4.8.2005, an application was filed by the 3rd respondent. On 25.7.2005, the Revenue Minister endorses on the letter of the MLA reading as under:

On 26.7.2005 the Under Secretary, Revenue Department, transmits the proposal of MLS to the Deputy Commissioner

6. Thereafter, as mentioned earlier, the review application was filed before the "CMA. CMA takes the review application and thereafter confirmed the same. The Tribunal also has culled out the note of dates as referred to in the chronological details. After noticing all these aspects, the Tribunal comes to a conclusion that the accommodation of the petitioner to Sarakki Circle is not bonafide and it is only to hold the petitioner in the matter of posting at Sarakki. Noticing these matters, the Tribunal was of the view that the transfer of the petitioner so modified is not on the basis of the public interest or that profess public purpose to accommodate the petitioner in place of postings of his choice for oblique reason and on political interference. The Tribunal also notices that the so-called family problem is not bonafide since both the offices namely Sarakki office and Rent Control office are situated at Bangalore itself. The Tribunal has found fault with the orders and the subsequent confirmation by CMA in the case on hand.

7. In the light of the above referred facts, we are convinced that all is not well in the matter of accommodation of the petitioner to a place of his choice. Admittedly, the petitioner was posted as Rent Controller, Bangalore North Division and subsequently, he has been posted to Sarakki Circle not for any public purpose but only to accommodate the petitioner at the instance of the political personalities. The argument that it is not a transfer but only a placing on promotion does not appeal to us. The petitioner seems to have a political backing of several political personalities in terms of the material as referred to above in our order. We are satisfied that the Tribunal is fully justified in the case on hand in setting aside the transfer of the petitioner as otherwise injustice would have been meted out to the 3rd respondent. We accept the order of the Tribunal.

8. Time and again, Courts have impressed upon the authorities that transfers/posting have to be made for public interest and not for any other consideration. We are sorry to note that several Ministers have chosen to recommend the petitioner's postings to somehow provide relief to the petitioner by way of a consideration of the earlier order and by a new order by way of posting the

petitioner to Sarakki by replacing the 3rd respondent, on the sole ground of family problem. The details of family problem is not forthcoming. Even otherwise, in the interest of efficient public administration, sometimes, the family problems have to pave way unless the family problem is so grave warranting retention of a particular person in a particular place. No such case is made out in the case on hand. In our view, the transfer/posting of the petitioner, as rightly ruled by the Tribunal is only for political consideration and not for any public consideration. This Court once again deem it proper to reiterate that political interference in transfer/posting matters are to be completely avoided in the larger interest of avoiding politicization of public office. As otherwise, the public administration would be at peril. Public efficiency and public good would suffer if transfers are effected on political considerations. Expressing our displeasure, we deem it proper not to entertain this petition in the light of a detailed order passed by the Tribunal.

9. AIR 1981 SC 1577 (Shanti Kumari v. Regional Deputy Director, Health Services, Patna Division, Patna and Ors.) is an order of the Supreme Court in which the Supreme Court has upheld the order of the High Court in refusing interference in a matter like this. We are fully conscious of the law on the subject. But there are cases and cases where Courts are compelled to interfere in the larger interest of public interest in the light of political interference. This is one such case where we have to interfere as otherwise the impugned orders would be having the political backing disregarding the public interest.

10. State of U.P. and Others Vs. Siya Ram and Another, is a Judgment of the Supreme Court which would show that judicial review is limited in the matter of transfer. As mentioned earlier, we are fully conscious that Courts cannot go into the factual aspects with regard to justifiability of transfer under Article 226 of the Constitution of India. But however, where the transfer/posting order smacks of political consideration, the Courts cannot shut its eyes and confirm such political interference orders. Confirmation of such orders would not be in the interest of public efficiency.

11. In the result, we do not find any justifiable grounds to interfere in the case on hand and in the given circumstances.

12. Petition stands rejected without being admitted.