
(2015) 03 KAR CK 0015

In the Karnataka High Court

Case No : Writ Petition Nos. 9513 to 9520/2014 (S-KAT)

Sanjeev Kumar A. and Others

APPELLANT

Vs

State of Karnataka and Others

RESPONDENT

Date of Decision : 19-03-2015

Acts Referred:

Citation : (2015) 03 KAR CK 0015

Hon'ble Judges : Raghvendra S. Chauhan, J.;K.L. Manjunath, J.

Bench : Division Bench

Advocate : Shailendra M.R., for the Appellant; E.R. Diwakar, A.G.A., Advocates for the Respondent

Final Decision : Allowed

Judgement

K.L. Manjunath, J.—Heard the learned counsel for the petitioners and the learned Addl. Government Advocate.

2. Petitioners being aggrieved by the dismissal of their applications filed before the Karnataka Administrative Tribunal, Bangalore, in KAT. Nos. 4632-4641/2013, dated 22nd November 2013, have filed these petitions.

3. The facts leading to these writ petitions are that the petitioners are working either as Head Masters or Assistant Teachers in Government Schools. The villages where they are working as Head Masters or Assistant Teachers are situated within a distance of 8 KMs. from the periphery of then Bangalore Mahanagara Palike. Pursuant to the Government order, even though they are not working within the Bangalore Mahanagara Palike area, they were getting house rent allowance and CCA as applicable to the State Government employees who were working in Bangalore city. It is also not in dispute that Bangalore Mahanagara Palike area has been extended on account of formation of Bruhat Bangalore Mahanagara Palike (BBMP). As a result of which, the limits of Bangalore Mahanagara Palike has been extended further. The State Government has passed an order stating that HRA and CCA are applicable only to Government

servants who are working in Bruhat Bangalore Mahanagar Palike area and the benefit which was extended to the petitioners has been withdrawn. Therefore, in similar circumstances, the persons who are working in villages and whose rights have been curtailed, have approached the Karnataka Administrative Tribunal stating that they are also entitled for similar relief. The Karnataka Administrative Tribunal directed the Government to consider their case in view of the undertaking given by them. Accordingly, the applications filed by the petitioners in Application Nos. 314 to 356/2010 and Application Nos. 988 to 1210/2010 were disposed of.

4. Based on the same, the petitioners also requested the Government to extend such benefit to them. The request of the petitioners was not considered by the Government. Therefore, they approached the KAT, which applications came to be rejected on the ground that KAT cannot interfere with the policy decision of the Government. In this background, the present petitions are filed.

5. Mr. M.R. Shailendra, learned counsel for the petitioners relying upon the order of the Government dated 18.3.2013 submits that under similar circumstances, benefit has been extended to the persons who are working in Madanayakanahalli, Thirumalapura, Madavara, Shrikantapura (Anchepalya) and Chikkabidarakallu, even though those villages are situated beyond BBMP area. By relying upon Annexure-A9 dated 18.3.2012, he contends, the Government cannot apply different polity to different Government servants.

6. The learned Government Advocate submits that, as per the policy decision, the benefit which was extended to the petitioners have been taken away by the Government. Therefore, he contends that the Tribunal is justified in rejecting the applications.

7. Having heard the learned counsel for parties, point to be considered by us in these petitions is as to whether the Tribunal is justified in rejecting the applications of the petitioners?

8. In view of Annexure-A9 dated 18.3.2013, the respondents are unable to dispute that even though Madanayakanahalli, Thirumalapura, Madavara, Shrikantapura (Anchepalya) and Chikkabidarakallu are situated beyond BBMP area, HRA and CCA has been extended to the Government servants who are working in the said villages. When the Government has taken a policy decision that HRA and CCA cannot be extended to the Government servants who are working beyond BBMP area, we are unable to understand how could there be disparity between the Government servants who are working in some villages and the Government servants who are working in other villages. There cannot be any disparity between the two Government servants who are similarly situated in all respects. In the circumstances, we are of the view that the Hon''ble Tribunal has committed an error in rejecting the applications.

In the result, the Writ Petitions are allowed. The order of the Tribunal is set aside. We direct the Government to consider the case of the petitioners in the

light of the decision taken by the Government by its order No. FD 9 SRP 2013, dated 18.3.2013 wherein HRA and CCA is extended to the Government servants who are serving in Madanayakanahalli, Thirumalapura, Madavara, Shrikantapura (Anchepalya) and Chikkabidarakallu, in accordance with law. This exercise shall be done within a period of three months from the date of receipt of this order.