

(2013) 12 KAR CK 0170

In the Karnataka High Court

Case No : Writ Appeal No. 5595 of 2013 (S-RES)

Sri G.R. Nanjundappa

APPELLANT

Vs

Bruhat Bangalore Mahanagara Palike

RESPONDENT

Date of Decision : 10-12-2013

Acts Referred:

Citation : (2013) 12 KAR CK 0170

Hon'ble Judges : D.H. Waghela, C.J.;S.N. Satyanarayana, J

Bench : Division Bench

Advocate : Babu Rao M, for the Appellant;

Final Decision : Dismissed

Judgement

D.H. Waghela, C.J.—The appellant, original petitioner, is aggrieved by the order dated 18.07.2013 of learned Single Judge in Writ Petition No. 11504/2013. The simple, but curious facts of the case are that the petitioner was aggrieved by the order dated 29.01.2013, declining his request to change his cadre from Senior Health Inspector to Work Inspector, which post carries a lower pay scale. The reason canvassed before us for making such a curious request before the management was that the appellant was facing stagnation insofar as, in his existing cadre with a much higher pay scale, he had no further scope for promotion. In support of his case, the appellant relied upon provisions of Rule 16(a)(ii) of the Karnataka Civil Services (General Recruitment) Rules, 1977, which reads as under:

16. Relaxation of rules relating to appointment and qualifications.- Notwithstanding anything contained in these rules or the rules of recruitment specially made in respect of any service or post the Government may, for reasons to be "recorded in writing".-

(a) appoint to a post.-

(i) an officer of the Defence Services, an All India Service or a Civil Service of the

Union, or the Civil Service of any other State;

(ii) an officer holding a post of an equivalent grade, by transfer or by deputation from any other service of the State for recruitment to which these rules apply.

After the above rule being quoted and learned counsel being made to read it to explain its application in the facts of the case, he submitted that he does not rely upon the above rule, but he relies on Rule 16-A and the explanation thereof. Again, upon he reading Rule 16-A, it was found that it was wholly inapplicable in the facts of the appellant's case and learned counsel also could not explain as to how the rule could be applied. However, in fact learned Single Judge has, in the impugned order, considered the arguments based on both the Rules and held that no interference with the order impugned before him could be justified in the eye of law.

2. It is clearly seen that the appellant has not approached with clean hands or in a bona fide manner either learned Single Judge, by filing the petition under Article 226 of the Constitution or the Division Bench by way of appeal. The appellant is not shown to have either a legal right, much less a fundamental right to choose either his post or cadre, nor the Rules in question and conditions contained in the provisions were satisfied in the facts of the case. The explanation or the excuse cited for seeking appointment to a post carrying pay scale of Rs. 11,600-21,000 from the existing post carrying pay scale of Rs. 16,000-29,600 is far from convincing. Under the circumstances, the appeal is summarily dismissed with costs, quantified at Rs. 5,000/-, which the appellant shall deposit within fifteen days to the Karnataka State Legal Services Authority at Bangalore.