

(2013) 07 KAR CK 0028

In the Karnataka High Court

Case No : Writ Petition No. 30236 of 2013 S-KAT

Sri H. Linge Gowda

APPELLANT

Vs

The State of Karnataka and Sri Rangaswamaiah

RESPONDENT

Date of Decision : 11-07-2013

Acts Referred:

Citation : (2013) 07 KAR CK 0028

Hon'ble Judges : D.V. Shylendra Kumar, J;B.S. Indrakala, J

Bench : Division Bench

Advocate : M. Subramanya Bhat, for the Appellant; S. Susheela, AGA for R1 to R3 and Sri Vijaya Sarathi, for R4, for the Respondent

Judgement

D.V. Shylendra Kumar, J.—Writ petitioner is an applicant before the Karnataka Administrative Tribunal, Bangalore, in Application No. 3415/2013. Writ petitioner has questioned the order of transfer dated 12.06.2013 [copy at Annexure-A7] passed by the Tahsildar, Tumkur District, transferring the petitioner who was holding charge of the post of Revenue Inspector at Kora Hobli, Tumkur District, to the post held by Rangaswamaiah who was working as First Division Assistant at the office of the Tahsildar, Kunigal, Tumkur Taluk and District and in turn transferring said Rangaswamaiah to the post held by the petitioner. Writ petitioner had questioned this order before the Tribunal on the ground that it is a malafide order; that the earlier order of transfer had been questioned before the Tribunal and the petitioner had succeeded, but within about four to five months, yet again transfer order is made, but only at the instance of the MLA to accommodate the fourth respondent etc.

2. The Tribunal while considering the application has not granted any interim order and under these circumstances, the petitioner has approached this court against the order of the Tribunal not granting interim stay of the transfer order questioned in the application before the Tribunal.

3. Notice having been issued to the respondents, respondents 1 to 3 are

represented by Smt. S. Susheela, learned Additional Government Advocate and fourth respondent is represented by Sri. Vijayasarithi, learned counsel.

4. Appearing on behalf of the petitioner, submission of Sri. Subramanya Bhat, learned counsel is that the writ petitioner is being transferred time and again and persons other than the appointing authority and controlling authority and outsiders like the MLA have made recommendation in favour of the fourth respondent only with a view to accommodate him, petitioner has been transferred; that the order is malafide one, not with due application of mind and not in public interest.

5. In a matter of transfer where there could be several considerations and if there were complaints from public and criminal cases pending against the petitioner, the order of transfer is even otherwise justified and just because MLA also recommends the same, it is not a matter for concluding that the order is necessarily a malafide or bad in law.

6. Be that as it may, it is not necessary for us to go into the merits of this matter when the main matter is pending before the Tribunal and as to whether the question of malafide transfer order or not is a matter which is required to be considered in the matter before the Tribunal. It is not proper for us to make any observations on merits of that matter. If the Tribunal, at its discretion, has not granted any interim order, we do not think we should interfere with the transfer order made in larger public interest. Therefore, this writ petition is dismissed.