

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 31ST DAY OF JANUARY, 2001

PRESENT

THE HON'BLE MR. P.V. REDDI, CHIEF JUSTICE

AND

THE HON'BLE MR. JUSTICE K.L. MANJUNATH

WRIT PETITION No.1211/2001

BETWEEN:

S.Sarfraz Khan S/o S.R.Khan,
34 years, Municipal Commissioner,
City Municipal Council, Kolar.

.. . PETITIONER

(By Advocate Sri.K.R.Bhavani Shankar)

AND:

1. The State of Karnataka, by its
Secretary to Government,
Urban Development Department,
M.S.Buildings,
Bangalore-1.
2. S.Sannappa S/o Siddappa,
56 years, R/at Municipal Quarters,
Kolar District. Kolar.
3. The Deputy Commissioner,
Kolar District, Kolar.

.. . RESPONDENTS

(Sri.B.Manohar, Govt. Advocate for R-1 & 3)

(Advocate Sri.M.S.Ananda Ramu for C/R-2)

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This Writ Petition is filed under Arts.226
and 227 of the Constitution of India to quash
Annexure -E dated 4.1.2000 by the KAT, Bangalore,
holding the same as illegal.

This petition is coming on for preliminary hearing this day, THE HON'BLE CHIEF JUSTICE made the following:

O R D E R

The order of the Karnataka Administrative Tribunal, ~~at~~ Bangalore in Application No.2058/2000 has been assailed in this writ petition filed by R-2 therein. The order of the Government dated 18.11.2000 (Annexure-A3) was questioned in the application filed before the tribunal. The order dated 18.11.2000 reads as follows:

"Sri.Sarfaraz Khan, Deputy Director, Co-operative Department, has been posted as Municipal Commissioner, City Municipal Council, Kolar in place of Sri.S.Sannappa with immediate effect in the interest of public service until further orders.

Sri.S.Sannappa has to report immediately before the Government for his further posting."

R-2 herein who has been displaced by the impugned order dated 18.11.2000 moved the tribunal to quash the said order. It appears that a few months earlier, petitioner herein was repatriated to his parent department i.e., Co-operation Department on the basis of the note of the District

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Minister in-charge that R-2 herein, the applicant before the Tribunal, was not discharging his duties satisfactorily. R-2 was displaced by the impugned order dated 18.11.2000 and the petitioner herein ^{who} was earlier repatriated to his parent department has been given posting as Municipal Commissioner, Kolar. The power available to the Government to appoint an officer holding a post of an equivalent grade by transfer or by deputation from any other service of the State is to be found in Rule-16 of the Karnataka Civil Services (General Recruitment) Rules, 1977. That Rule provides for relaxation of the Rules relating to appointments and qualification, but the exercise of power under Rule-16 is conditioned by fulfilment of an important prerequisite that the Government has to record the reasons in writing. It is needless to state that the reasons must have a bearing on ^{the need or expediency of} deploying an officer in another service by transfer or deputation. It is implicit that such power can only be exercised in exigencies of public service. We do not find any reasons in the file for transferring the petitioner back to ~~m~~unicipal service, after the repatriation to his parent ~~co~~operation department. The fact that the services of R-2 were found

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to be not satisfactory is, in our view, not at all a relevant reason for transferring or deputing a member of another service to the Municipal Administration service. It may be that the Government is not powerless to transfer an officer who is already working as Municipal Commissioner. We need not go into the question whether within three months after R-2 assumed office of the Municipal Commissioner, there was sufficient basis to conclude that his services were unsatisfactory. Be that as it may, we are more concerned here with the question whether the power to ~~the~~ ^R relaxation ~~of~~ ^{the} Rules has been exercised by the Government after recording relevant reasons. It is ~~the~~ ^{to} ~~right~~ ^R to state that the administrative power vested with the Government can be tested from the angle whether the power has been exercised for relevant reasons, that is to say, reasons which have proximate connection with the exigencies of public service. Such reasons are lacking in the present case. ~~We~~ ^R therefore agree that there was no valid exercise of power under Rule -16 and the impugned order is vitiated for that reason. We therefore dismiss the writ petition. However, it is open to the

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Government to maintain status ^{Qno R} for a period of
one month so that if the Government so desires,
it may consider the question of deployment of the
petitioner in Municipal Administration service
afresh. It is needless to mention that while
considering the matter afresh, the observations
made in the judgment shall be kept in view by
the Government.

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Sd/-
Chief Justice

Sd/- JUDGE