

Siddaraju Vs. The State of Karnataka

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Court : Karnataka

Decided On : Jun-16-2017

Judge : H.G.Ramesh and John Michael Cunha

Appeal No. : WP 22904/2017

Appellant : Siddaraju

Respondent : The State of Karnataka

Judgement :

1 - - WP No.22904/2017 IN THE HIGH COURT OF KARNATAKA AT BENGALURU DATED THIS THE16H DAY OF JUNE 2017 PRESENT R THE HONBLE MR. JUSTICE H.G.RAMESH AND THE HONBLE MR. JUSTICE JOHN MICHAEL CUNHA WRIT PETITION NO.22904/2017 (S-KAT) BETWEEN: ...PETITIONER SIDDARAJU, S/O LATE DASAIAH AGED ABOUT59YEARS COMMANDANT, KARNATAKA ARMED RESERVE POLICE MOUNTED COMPANY LALITH MAHAL ROAD MYSURU - 570 010 RESIDING AT NO.375, 1ST CROSS GAYATHRIPURAM2D STAGE OPPOSITE PF OFICE MYSURU - 570 019 (BY SRI H.V.NAGARAJA RAO, ADVOCATE) AND:

1.

2.

3. THE COMMISSIONER OF POLICE MYSURU CITY MYSURU - 570 001 THE STATE OF KARNATAKA BY ITS SECRETARY, HOME DEPARTMENT VIDHANA SOUDHA, BENGALURU - 560 001 THE DIRECTOR GENERAL & INSPECTOR GENERAL OF POLICE, NRUPATHUNGA ROAD BENGALURU - 560 001 2 - - WP No.22904/2017 PRAVEEN ALVA, MAJOR IN AGE ASSISTANT COMMANDANT STATE INTELLIGENCE BENGALURU - 560 001 4. (BY MS.M.S.PRATHIMA, AGA FOR R1 TO R3) RESPONDENTS THIS WRIT PETITION IS FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE IMPUGNED

ORDER

DATED 55.2017 PASSED BY RESPONDENT NO.1 (ANNEXURE-A8) AND THE

ORDER

DATED 18.5.2017 PASSED IN APPLICATION NO.2697/2017 BY THE KARNATAKA STATE ADMINISTRATIVE TRIBUNAL, BANGALORE (ANNEXURE-A). THIS WRIT PETITION COMING ON FOR PRELIMINARY HEARING, THIS DAY, H.G.RAMESH J., MADE THE FOLLOWING:

ORDER

H.G.RAMESH, J.

(Oral):

1. This writ petition is directed against the order dated 18.05.2017 passed by the Karnataka State Administrative Tribunal, Bangalore, in Application No.2697/2017. In the application, petitioner had challenged the order of transfer dated 05.05.2017 transferring him from Mysuru to Mangalore. The Tribunal, by its aforesaid order, has declined to interfere with the order of transfer.

2. Learned Counsel appearing for the petitioner submitted that the petitioner will attain superannuation on 3 - - WP No.22904/2017 30.06.2018, and therefore, his transfer is violative of Government Order bearing No.DPAR22STR2013 Bangalore, dated 07.06.2013 which has laid down guidelines (transfer policy) for transfer of Government servants. He specifically referred to para 9(a)(i) of the

aforesaid Government order. In support of the writ petition, he also relied on a decision rendered by a learned Single Judge of this Court in Sri C.Vasudeva vs. The State of Karnataka [ILR 2015 KAR4513.

3. On being asked by the Court, learned Counsel appearing for the petitioner submitted that the petitioner is a police officer and is on operational duties. If it be so, as rightly contended by the learned AGA, transfer of a police officer on operational duties is governed by Section 20-F of the Karnataka Police Act, 1963 (the Act). Therefore, challenge made to the transfer of the petitioner has to be examined in the light of Section 20-F of the Act and not the Government Order dated 07.06.2013 referred to above as it specifically states that the guidelines stated therein are not applicable to those Government servants who are governed by separate Acts/Rules framed for the purpose of transfer. 4 - - WP No.22904/2017 Accordingly, Section 20-F of the Act requires to be noticed; it reads as follows: imposition of punishment of dismissal, 20-F. Tenure of officers incharge of police stations, circle, sub-division, district and range.-(1) Subject to superannuation, the officers who are on operational duties or such other duties as may be notified by the Government from time to time shall have a minimum tenure of one year: Provided that any such officer may be transferred by the Police Establishment Board or by the Government as the case may be from his post before the expiry of the minimum tenure consequent upon.- (a) promotion to a higher post; or (b) on conviction, or charges having been framed by a court of Law in a criminal offence; or (c) removal, discharge or compulsory retirement from service or of reduction to a lower rank awarded under the relevant discipline and appeal rules; or (d) suspension from the service in accordance with the provisions of the said rules; or (e) incapacitation by physical or mental illness or otherwise becoming unable to discharge his functions and duties; or (f) the need to fill up a vacancy caused by promotion, transfer or retirement; or (g) on request of the officer concerned in writing: Provided further that the Government may, transfer an officer before the expiry of his minimum tenure on account of misconduct or gross negligence or an act of moral turpitude in the opinion of the State Government. (2) Subject to superannuation, the Additional Director General of Police, the Inspector General of Police in charge of Range or Superintendent of Police in charge of a District including Additional Superintendent of Police who are on operational duties

in the field or such other duties as may be notified by the Government from time to time shall have a minimum tenure of one year: Provided that the Government may transfer such officer within a period of one year for reasons of gross misconduct or negligence or an act of moral turpitude in the opinion of the State Government or under circumstances specified in the provisos to sub-section (1). 5 - - WP No.22904/2017 4. It is not the case of the petitioner that his transfer is violative of Section 20-F of the Act. The decision relied on by the petitioner is not applicable to this case as it was not rendered in the context of transfer of a police officer on operational duties. As the transfer of the petitioner is not violative of Section 20-F of the Act, we decline to interfere with the order of the Tribunal. Petition dismissed. Sd/- JUDGE Sd/- JUDGE KSR

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