

IN THE KARNATAKA STATE ADMINISTRATIVE TRIBUNAL AT
BANGALORE

DATED : THIS THE 28TH DAY OF FEBRUARY, 2022

P R E S E N T

THE HON'BLE Mr. JUSTICE BUDIHAL R.B. , ...CHAIRMAN

&

THE HON'BLE Mr. N. SIVASAILAM, ..ADMINISTRATIVE MEMBER.

APPLICATION NO.593 OF 2022

BETWEEN :

Smt. Sandhya,
W/o. Sachin Kumar,
Aged about 43 years,
Working as Range Forest Officer,
Forest Mobile Squad,
Udupi 576 113.

.. APPLICANT

(By Sri.A.Vishwanatha Bhat, for M/s.Subba Rao & Co., Advocate for applicant).

A N D :

1. The State of Karnataka,
Represented by its Principal Secretary
to Government,
Department of Forest, Environment &
Ecology, Vidhana Soudha,
Bengaluru 560 001.
2. The Principal Chief Conservator of Forest,
(Head of Forest Forces),
Forest Department, Aranya Bhavan,
Bengaluru 560 055.

.. RESPONDENTS

(By Sri. M.Sandesh Kumar, Government Pleader for respondents)

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This Application is filed under Section 19 of the Administrative Tribunals Act, 1985, with a prayer to quash the Office Order bearing No.180/2021-22 dated 02.02.2022 passed by the second respondent vide Annexure-A4as the same is illegal, arbitrary, unjust, irrational and without authority of law and the same is in violation of articles 14 & 16 of the Constitution of India apart from being contravention of Karnataka State Civil Services (Regulation of Transfers and Postings of Forest Officers and other officials) Act, 2016 and Rules framed thereunder and also Government Order dated 07.06.2013 and direct the respondents to continue the applicant in the post of Range Forest Officer, Forest Mobile Squad, Udupi, and etc.

This Application coming on for Preliminary Hearing/Hearing, having been reserved for Pronouncement of Orders, this day, the **Hon'ble Sri.N.SIVASAILAM, Administrative Member**, made the following :

ORDER

The facts of the case are not disputed. The applicant who is in the Group B cadre of Range Forest Officer came to the present place of posting on 10-07-2019 in the Forest Mobile Squad Udupi and she reported for duty on 22-07-2019 until transferred vide the impugned order of the second respondent dated 2-02-2022 as at Annexure A4. The learned counsel for the applicant has fairly stated that the applicant has completed her tenure at the post but the grounds for challenge to the transfer is that it has been done on political grounds / influence and therefore, it is malafide. In this regard, the applicant

has referred to the copy of the letter of the MLA Belthangady addressed to the Hon'ble Chief Minister dated NIL and the Hon'ble Chief Minister dated NIL has endorsed to the ACS Forest in Kannada language 'to be transferred'. The learned counsel for the applicant has contended that the transfer is done solely at the instance of the MLA Belthangady for the reason that she had initiated criminal action dated 4-01-2022 under Sections 62 and 80 of the Karnataka Forest Act, 1963 against forest offenders for having committed offence of illegally cutting the forest trees and transporting the same, the accused brought political pressure to bear on the applicant through the MLA of Belthangady Constituency, the applicant did not budge, he has written to the Hon'ble Chief Minister to transfer the applicant to Forest Training centre Bidar.

2. The learned government pleader has not filed any reply statement but has orally opposed the application and stated that the transfer is lawfully done, the applicant has completed her tenure and hence the application deserves to be dismissed.

3. We have heard the counsels on both sides and perused the application and the annexures attached to it. We have also perused the copy of the original file of the second respondent relating to the

impugned order. The learned government pleader has made available to us the records of the department leading to the order of the second respondent but not the file of the government on the basis of which the government issued the letter dated 31.01.2022 to transfer the applicant. In any case, the learned government pleader has not at all denied that the transfer of the applicant is solely based on the letter of the Hon'ble MLA Belthangady.

4. It is not in dispute that the applicant has completed her tenure. The fact that the government addressed the letter dated 21-01-2022 to transfer the applicant to the Forest Training college, Bidar at the instance of the Hon'ble Belthangady MLA is not at all denied by the applicant. Nowhere it is explained as to the motivation and interest of the Hon'ble MLA to propose the posting of the applicant to Forest Training College Bidar when it is not at all connected even remotely with works in his constituency. Therefore, we are of the view that notwithstanding that the applicant has completed her tenure at the post, the transfer of the applicant is clearly vitiated by political interference and malafides. Therefore, the impugned order is unsustainable under law and deserves to be set aside. Hence the applicant is entitled to be returned to her post as RFO of the Forest Mobile squad, Udupi with immediate effect.

5. In view of the discussions above, the application succeeds, the impugned order dated 2-02-2022 as at annexure A4 is set aside as being malafide and vitiated by malafide political interference in the matter of transfer of government servants which is untenable under the transfer guidelines. The applicant is restored to her post as RFO Forest Mobile squad, with immediate effect. This is without prejudice to the competent authority from transferring the applicant strictly in accordance with the transfer guidelines but only after she is restored to the post of RFO, Forest Mobile Squad, Udupi with immediate effect.

Sd/-
(JUSTICE BUDIHAL.R.B.)
CHAIRMAN

Sd/-
(N.SIVASAILAM),
ADMINISTRATIVE MEMBER.

HKN