

BEFORE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE
DATED THIS THE EIGHTEENTH SEPTEMBER, 1986

Present : Hon'ble Shri Justice K.S. Puttaswamy ... Vice-Chairman
Hon'ble Shri P. Srinivasan ... Member (A)

Application No.710 to 714 of 1986
(W.P.No.9937 to 9941/81)

Shri K.A. Kushalappa and others ... Applicants

Vs.

Union of India and others ... Respondents

This application came up for hearing before Court today.

The Hon'ble Vice-Chairman made the following:

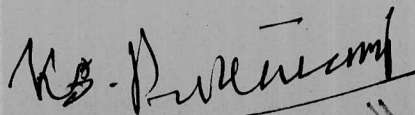
ORDER

Shri K.A. Kushalappa, application in Application No.710 of 1986 present. Shri K.A. Savanur, learned counsel appears for Shri N.B. Bhat, learned Advocate who appears for all the applicants. Sriyuths M.S. Padmarajaiah, learned Central Government Standing Counsel, N. Santosh Hegde, M. Narayana Swamy, K.S. Desai, V.S. Hegde, P. Viswanatha Shetty, Chandrasekharaih and Munir Ahmed, learned advocates appear or file power for respondents noted in their respective Vakalathnamas. We have heard all of them.

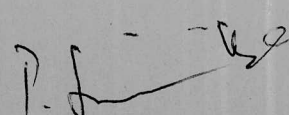
2. In these transferred applications received from the High Court of Karnataka under Section 29 of the Administrative Tribunals Act 1985 (The Act) the applicants as petitioners before the High Court, but were not parties to an order made on 15.1.1981 by Malimath J (as His Lordship then was) in Writ Petition-s No.4418 and 7085 to 7088 of 1977 (Annexure F) have sought for recalling that order, then restore those writ petitions to their original files, implead them as party respondents and then dispose of them according to law.

3. Among other grounds, the applicants have urged that the order made by Malimath, J. (as His Lordship then was) allowing writ petition Nos.4418, 7085 to 7088/77 filed by respondents 5 to 9 herein who were the petitioners in those writ petitions without impleading them as party respondents and providing them an opportunity of hearing, prejudicially affecting their inter-se seniority, was violative of the principles of natural justice and that in conformity with the ruling of the Supreme Court in *Shavedeo Singh V. State of Punjab* and others in AIR 1963 SC 1909, that order must be recalled and then those writ petitions filed by respondents 5 to 9 should be heard on merits.

4. In reality and substance, the applicants who were not parties to the order made by the High court are seeking for a review of that order, however by filing original writ petitions as ruled by the Supreme Court in *Shivdeo Singh's* case. The Act only provides for transfer of pending 'service matters' on the appointed day to the Tribunal. The Act does not provide for the transfer of the applications for re-calling or review of the orders made by a High Court as also the appeals directed against orders of learned Single Judge. The Act does not empower the Tribunal to exercise any of those powers. We have no doubt that if these aspects had been noticed, the office of the High Court would not have transferred Writ Petitions Nos.9937 to 9941 of 1981 to this Tribunal, but would have posted them for hearing before the appropriate Bench of the High Court. In these circumstances, we have no alternative except to re-transfer Writ Petitions Nos.9937 to 9941 of 1981 to the Hon'ble High Court of Karnataka for disposal. We, therefore, direct the Registrar of this Tribunal to re-transfer Writ Petitions Nos.9937 to 9941 of 1981 to the Hon'ble High Court of Karnataka for being dealt by that Court in accordance with law.



Vice-Chairman



Member