

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

ORIGINAL APPLICATION NO.170/00429/2019

DATED THIS THE 16th DAY OF APRIL, 2019

HON'BLE DR. K.B. SURESH, MEMBER (J)

HON'BLE SHRI CV.SANKAR MEMBER (A)

Akram Pasha, IAS(KN)
S/o late Nanne Jan,
Aged about 49 years,
Working as Deputy Commissioner
Hassan District (Now on the order of
Transfer and awaiting for posting),
and Residing at No.86,
3rd Cross,
Nandidurga Extension,
Bangalore – 46

.....Applicant

(By Advocate Shri Subramanya Bhat)

vs.

1.State of Karnataka,
Represented by the Chief Secretary,
Vidhana Soudha,
Bengaluru - 560 001

2.Principal Secretary to Government
Government of Karnataka,
DP&AR (Services-1),
Vidhana soudha,
Bengaluru - 560 001.

3.Election Commission of India,
Represented by the Chief Electoral
Officer, Karnataka,
Sheshadri Road,
Bengaluru , 560 009.

4.Smt.Priyanka Mary Francis,IAS(KN),
Name of the Husband/Father not known
to the applicant,
Major in age
Deputy Commissioner
Hassan District

...Respondents.

(By Shri RB.Satyanarayana Singh.. State Government Counsel)

ORDER (ORAL)

HON'BLE DR K.B.SURESH, MEMBER (J)

1. Heard. The matter is covered by our order in OA No. 370/2018 dated 27.4.2018 which we quote:-

"1.Heard. This matter is in a very short compass. This is squarely covered by the decision of the Hon'ble High Court of Karnataka in the matter of Election Commission of India, New Delhi vs. State Government of Karnataka reported in 2013 (6) Karnataka Law Journal 363 (DB). Therefore, we hold that all transfers initiated by the State Government on the behest of the Election Commission shall be only during the duration of the election. Shri Abilash, learned counsel for the Election Commission submits that by 18.5.2018 all process of election will be over and these people who are disturbed will be returned back on 19.5.2018.

2. *At this point of time Shri Abilash, learned counsel for the Election Commission wanted us to make clarification if in one constituency election will be counter manded then the concerned person has to remain in*

the concerned constituency. This seems to be a reasonable stipulation as Election Commission can have only jurisdiction during election. After the election is over they may not have anything more to do with the matter. If elections are counter manded and process of election continues the applicant will continue to be there. Other wise immediately deemed to have rejoined the post on 19.5.2018. This order will be applicable to all similar cases except wherein the special rights of the State Government and / or Lok Ayuktha are in issue. OA is disposed off. No order as to costs.”

2. It is also covered by order of the Hon'ble High Court of Karnataka in Election Commission of India and another vs. State of Karnataka & others reported in 2013 (6) Karnataka Law Journal 363(DB) wherein Hon'ble High Court held that these transfers cannot be treated as transfers, but only as deputation and will come to an end at the time of election results are declared. It is submitted at the Bar by both the counsels that election results will be announced on 23.5.2019. Therefore, all these people will abide by the transfer orders for now. On 24th May, 2019 they will automatically be retransferred back to their old position. Therefore, we dispose off this OA in-limine. No order as to costs.

3. Learned counsel for the applicant points out that Hon'ble High Court had taken a view that this should be viewed as deputation than as a transfer. But then which ever way it is looked at, Election

Commission's fundamental function comes to an end once the results are declared. Thereafter, the right of the State Government to post an officer will attain preeminence. That is hereby declared. The next day applicant will rejoin at the earlier post.

4. OA is thus allowed. No order as to costs.

(CV.SANKAR)
MEMBER (A)

(DR. K.B. SURESH)
MEMBER (J)

bk.

Annexures referred to by the applicant in OA No.429/2019

Annexure A1: Copy of order dated 22.2.2019

Annexure A2: Copy of notification dated 28.3.2019

Annexure A3: Copy of notification dated 30.3.2019

Annexure A4: Copy of order in OA No. 370/2018 dated 27.4.2018