

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 10TH DAY OF NOVEMBER, 2021

R

BEFORE

THE HON'BLE MR. JUSTICE M. NAGAPRASANNA

WRIT PETITION No.8952/2021 (S - TR)

C/W

WRIT PETITION No.5399/2021 (S - TR)

IN WRIT PETITION No.8952/2021

BETWEEN:

SRI D.NAVEEN
S/O SRI DEVENDRAPPA A.G.,
AGED ABOUT 35 YEARS,
ASSISTANT ENGINEER (ELE),
PIN 15941, BESCO, M,
VARTHUR (O AND M)UNIT,
E-43, SUB-DIVISION, WHITEFIELD,
BENGALURU - 560 066.

... PETITIONER

(BY SRI D.R.RAVISHANKAR, ADVOCATE (VIDEO
CONFERENCING))

AND:

1. STATE OF KARNATAKA
DEPT. OF ENERGY,
VIKASA SOUTH,
BENGALURU - 560 001.
REPRESENTED BY ITS

UNDER SECRETARY.

2. THE KARNATAKA POWER TRANSMISSION CORPORATION LIMITED
KAVERI BHAVAN / K.G.ROAD,
BENGALURU – 560 009.
REPRESENTED BY ITS
MANAGING DIRECTOR.
3. THE GENERAL MANAGER (STAFF)
KARNATAKA POWER TRANSMISSION CORPORATION LIMITED,
KAVERI BHAVAN / K.G.ROAD,
BENGALURU – 560 009.
4. THE BENGALURU ELECTRICITY SUPPLY COMPANY
K R CIRCLE,
BENGALURU – 560 009.
REPRESENTED BY ITS
MANAGING DIRECTOR.
5. THE GENERAL MANAGER (A AND HRD)
BESCOM, K.R. CIRCLE,
BENGALURU – 560 009.
6. THE EXECUTIVE ENGINEER (ELE)
WHITEFIELD DIVISION, BESCOM,
WHITEFIELD, BENGALURU – 560 066.
7. THE ASSISTANT EXECUTIVE ENGINEER (ELE)
E-4, SUB DIVISION, BESCOM,
WHITEFIELD, BENGALURU 560 066.
8. SRI S.MAHADEV
S/O. SHIVALINGAIAH,
ASSISTANT ENGINEER (ELE),
PIN 15941, BESCOM,
VARTHUR (O AND M) UNIT,
E-4, SUB DIVISION,

BESCOM, WHITEFIELD,
BENGALURUL 560 066.

... RESPONDENTS

(BY SMT.M.C.NAGASHREE, AGA FOR R1 (PHYSICAL
HEARING)
SRI B.C.SEETHARAM RAO, ADVOCATE FOR
SRI ANUP SEETHARAM, ADVOCATE FOR R8 (VIDEO
CONFERENCING)
MS.RAKSHITHA D.J., ADVOCATE FOR R2 TO R7
(PHYSICAL HEARING))

THIS WRIT PETITION IS FILED UNDER ARTICLE 226
OF THE CONSTITUTION OF INDIA PRAYING TO QUASH
ANNEXURE-J THE ORDER OF RETENTION OF THE 8TH
RESPONDENT DATED 12.3.2021 ISSUED BY THE 4TH
RESPONDENT AND ALSO THE ANNEXURE-K TRANSFER OF
THE PETITIONER VIDE TRANSFER ORDERS DATED
5.4.2021 ISSUED BY THE 2ND RESPONDENT AND ETC.,

IN WRIT PETITION No.5399/2021

BETWEEN:

SRI NAVEEN D.,
S/O SRI DEVENDRAPPA A.G.,
AGED ABOUT 35 YEARS,
ASSISTANT ENGINEER (ELE),
PIN 15941, BESCOM,
VARTHUR (O AND M) UNIT,
E-4, SUB DIVISION,
WHITEFIELD, BENGALURU – 560 066.

AND:

NO. 314/16, SAI MEADOW'S ROAD,
GOKULAM LAYOUT, SAI COLONY,
BELLATHUR, KADUGODI,

BENGALURU – 560 067.

... PETITIONER

(BY SRI D.R.RAVISHANKAR, ADVOCATE (VIDEO
CONFERENCING))

AND:

1. STATE OF KARNATAKA
DEPT. OF ENERGY,
VIKASA SOUDHA,
BENGALURU 560 001,
REPRESENTED BY ITS
UNDER SECRETARY.
2. KARNATAKA POWER TRANSMISSION
CORPORATION LTD.,
KAVERI BHAVAN,
K.G. ROAD, BENGALURU - 560 009,
REPTD. BY ITS MANAGING DIRECTOR.
3. THE GENERAL MANAGER (STAFF)
KARNATAKA POWR TRANSMISSION
CORPORATION LTD.,
KAVERI BHAVAN,
K.G.ROAD,
BENGALURU – 560 009.
4. BANGALORE ELECTRICITY
SUPPLY COMPANY LTD.,
COMPANY OFFICE, K.R.CIRCLE,
BENGALURU – 560 009,
REPTD. BY ITS MANAGING DIRECTOR.
5. THE GENERAL MANAGER (A AND HRD)
BANGALORE ELECTRICITY
SUPPLY COMPANY LTD.,
COMPANY OFFICE,
K.R.CIRCLE,
BENGALURU – 560 009.

6. THE EXECUTIVE ENGINEER (ELE)
WHITEFIELD DIVISION, BESCOM,
WHITEFIELD, BENGALURU – 560 066.
7. THE ASSISTANT EXECUTIVE ENGINEER (ELE)
E-4, SUB DIVISION, BESCOM,
WHITEFIELD, BENGALURU – 560 066.
8. SRI MAHADEV S.,
S/O SHIVALINGAIAH,
ASSISTANT ENGINEER (ELE),
PIN 15941, BESCOM,
VARTHUR (O AND M) UNIT,
E-4, SUB DIVISION,
WHITEFIELD, BENGALURU – 560 066.

... RESPONDENTS

(BY SMT.M.C.NAGASHREE, AGA FOR R1 (PHYSICAL HEARING)
MS.RAKSHITHA D.J , ADVOCATE FOR R2 TO R7
(PHYSICAL HEARING)
SRI B.C.SEETHARAM RAO, ADVOCATE FOR
SRI ANUP SEETHARAM, ADVOCATE FOR R8 (VIDEO
CONFERENCING))

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA PRAYING TO CALL FOR RECORDS /FILE PERTAINING TO THE TRANSFER ORDERS DATE 10.03.2021 AND DATED 12.03.2021 FROM THE RESPONDENTS 2 TO 5 AS ANNEXURES-P AND R; SET ASIDE THE COMMUNICATION/ORDER BEARING NO. DATED 10.03.2021 (ANNEXURE-P) OF THE 3RD RESPONDENT AND COMMUNICATION/ ORDER BEARING NO. DATED 12.3.2021 (ANNEXURE-R) ISSUED BY 5TH RESPONDENT AS ILLEGAL, ARBITRARY AND VIOLATIVE OF ARTICLE 14 OF THE CONSTITUTION AND ETC.,

THESE WRIT PETITIONS HAVING BEEN HEARD AND RESERVED FOR ORDERS, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING :-

ORDER

The petitioner, who is common in both these writ petitions, calls in question certain orders of transfer dated 10.03.2021, 12.03.2021 and 05.04.2021, on the ground that the said orders are contrary to law. In furtherance of this contention, he seeks the following prayers.

2. In writ petition No.5399/2021, the following prayer is sought:

*“a. Call for records/file pertaining to the transfer orders dt:10.03.2021 and dt:12.03.2021 from the respondents:2 to 5 produced as **Annexures - P & R.***

*b. Set aside the communication / order bearing No. KPTCL / B59 / 11755/Part-1/2020- 21 dt 10.03.2021 (**Annexure - P**) of the 3rd respondent and communication/order bearing No . BESCO / BC31 / 114 / 2020 –*

21 / 867 dated 12.3.2021 (**Annexure- R**) issued by 5th respondent as illegal, arbitrary and violative of Article 14 of the Constitution.

c. Declare the action of the 3rd and 4th respondent in following the practice of issuance of relieving and reposting orders, pro- forma of the same are produced at **Annexure-S** bearing No: BESCOB / BC31 / 114 / 2020-21/584 dt:11.12.2020, **Annexure-S1** bearing No.: BESCOB / BC31 / 114 / 2020-21 / 594 dt:15.12.2020, **Annexure-S2** bearing No.: BESCOB / BC31 / 114 / 2020-21 / 639 dt:24.12.2020, and **Annexure- S3** bearing No.: BESCOB / BC31 / 114/ 2020 - 21 683 dt:11.01.2021, as illegal and void;”

During the pendency of the said writ petition, the petitioner files another writ petition - the companion, in writ petition No.8952/2021 seeking the following prayer:

“a) **ISSUE A WRIT** in the nature of Certiorari to quash **Annexure- J** the order of retention of the 8th respondent dated 12.3.2021 issued by the 4th Respondent and also the

Annexure-K transfer of the petitioner vide transfer orders dated 5.4.2021 issued by the 2nd respondent.

b) **ISSUE A** writ of mandamus to the official respondents to give effect to the transfer order dated 6.3.2021 vide **Annexure-G** passed by the 4th respondent;

c) **PASS** such other orders as may be deemed fit and proper by this Hon'ble Court considering the facts and circumstances of the case to meet the ends of justice.”

3. Sans details, the skeletal material facts germane are as follows:

The petitioner was appointed as a Junior Engineer in the year 2006 and was later promoted as Assistant Engineer with effect from 13.01.2017 and is presently working in the cadre of Assistant Engineer (Electrical). The petitioner on 13-01-2017, was transferred to the Office of the Assistant Engineer (Electrical), Kadugodi (O

& M), BESCOM E-4 Sub-Division, Whitefield and continued to discharge his duties at Kadugodi (O & M).

4. Things standing thus, on 02-12-2020, the KPTCL prepared a list of Officers who are to be transferred after seeking prior approval of the Hon'ble Chief Minister. In terms of the said list, the Karnataka Power Transmission Corporation Limited (hereinafter referred to as 'the KPTCL' for short) issued an order of transfer on 09.12.2020, transferring the petitioner to the place of the eighth respondent, Varthur (O & M), BESCOM, E- 4 Sub-Division. The order of transfer moves the petitioner, who was working at Kadugodi (O & M), to Varthur (O & M), BESCOM.

5. By another order of the same date, one Sri T.K. Gangaraju was posted to the place of the petitioner i.e., Kadugodi (O & M), BESCOM, E- 4 Sub-Division. In terms of the transfer order dated 09.12.2020, the 5th respondent – Bengaluru Electricity Supply Company

Limited (hereinafter referred to as 'the BESCO' for short) issued an order relieving Sri T.K.Gangaraju and directing him to report to duty at the place of the petitioner and the petitioner, accordingly handed over charge to Sri T.K.Gangaraju, in terms of the order of transfer dated 09.12.2020. The charge was handed over on 14.12.2020.

6. The petitioner in furtherance of this order of transfer issued by KPTCL, was not issued any further order by BESCO directing him to report to duties at Varthur (O and M), where the eighth respondent was functioning. At that juncture, the petitioner knocks the doors of this Court in writ petition No.1650/2021, seeking the following prayer:

“a. Declare the action of the 3rd and 4th respondent in following the practice of issuance of relieving and reporting order, pro-forma of the same are produced at Annexure-K bearing No. BESCO / BC31 /

114/2020-21/584 dated 11.12.2020,
Annexure -K1 bearing No. BESCOB / BC31 /
114 / 2020 – 21 / 594 dated 15.12.2020,
Annexure-K2 bearing No. BESCOB / BC31 /
114 / 2020 - 21/639 dated 24.12.2020 and
Annexure-K3 bearing No. BESCOB / BC / 31
/ 111 / 2020 – 21 / 683 dated 11.01. 2021
as illegal and void;

b. Direct the 1st respondent to give
direction to the 3rd respondent to give effect
to the transfer order bearing
No.KPTCL/B59/11749/Division/2020 -21
dated 09.12.2020 (Annexure-C)
immediately in pursuance to the Circular
bearing No. KPTCL / B5A / SA3/5474/97-
98/2 dated 05.01.2021 (Annexure-G);

c. Pass such other order/s
deemed just and proper in the facts and
circumstances of the case in the interest of
justice and equity.”

The writ petition was not entertained as it was a
petition for issuance of a direction for issuance of a

movement order. This Court disposed the writ petition by observing as follows:

“2. The transfer of the petitioner is made by an order dated 09.12.2020. Pursuant to which, the petitioner claims to have been relieved from his post, where he was working and is awaiting a movement order from the BESCO to report to duty at the transfer place and sought for a direction to respondent No.3–BESCO to give him posting such, directions by issuance of a writ in the nature of mandamus is seldom granted, as no right of the petitioner is taken away by any of the order that is passed. A prayer for a direction at the hands of this Court to the KPTCL or BESCO to permit them to join cannot be entertained. The other grievance of the petitioner with regard to non-payment of salary for the last two months if that be so, he is at liberty to represent to the respondents, and it is needless to observe that respondents would consider and pay the salary that is due to the petitioner.

Writ petition stands disposed of.”

After disposal of the aforesaid writ petition, another order was issued directing the eighth respondent to continue in the same place - Varthur (O & M) and directed the petitioner to report to the Head Office awaiting further orders. He was not shown any posting. The petitioner called this action of the KPTCL in question, in writ petition No.5399/2021. On issuance of notice by this Court, another Official Memorandum dated 05.04.2021, is issued by the respondents posting the petitioner to Rajanakunte. The Official Memorandum dated 05.04.2021 is called in question in writ petition No.8952/2021. Both these writ petitions concern the same parties, but raise a challenge to two different orders, one retaining the eighth respondent by order dated 12.03.2021 and the other, posting the petitioner to Rajanakunte, dated 05.04.2021. The issues and facts are intertwined, petitions are therefore, considered together.

7. Heard Sri D.R.Ravishankar, learned counsel appearing for the petitioner, Smt. M.C.Nagashree, learned Additional Government Advocate appearing for the first respondent, Ms. Rakshitha D.J., learned counsel appearing for second to seventh respondents, Sri B.C.Seetharam Rao, learned counsel appearing for the eighth respondent.

8. Sri D.R.Ravishankar, learned counsel appearing for the petitioner would urge the following contentions.

- i. *The Hon'ble Chief Minister had approved the transfer of the petitioner on 02.12.2020, whereby, the petitioner was transferred from Kadugodi to Varthur (O and M) and it is only then, an order dated 09.12.2020 was issued transferring the petitioner to the place of the eighth respondent.*
- ii. *The BESCOB deliberately did not issue any posting order directing the petitioner to report to duties at*

Varthur (O & M) only with an intention to accommodate the eighth respondent.

iii. The BESCO has no power in law to disobey the order of transfer made by the KPTCL.

iv. The necessity of BESCO to issue separate orders of transfer after KPTCL issuing a transfer order has resulted in the efforts of certain officers to continue to work in their place by bringing in political influence. It is for this reason, though the petitioner was transferred on 09.12.2020 upto 05.04.2021, no reposting orders were issued as was required.

v. Once the transfers with the prior approval of the Hon'ble Chief Minister is effected, the BESCO could not have adopted a different course.

vi. There are no rules forthcoming for the BESCO to issue posting orders after KPTCL issues orders of transfer which bears the prior approval of the Hon'ble Chief Minister.

vii. On 06.03.2021, the BESCO issued reposting order in favour of the petitioner immediately thereafter issued another order on 10.03.2021, canceling the said order of transfer and directing the petitioner to report to Head Office and on 12.03.2021, the eighth respondent was continued at Varthur (O & M). What had happened in the interregnum was political influence bought by the eighth respondent.

vii. The subsequent orders of transfer, retention, and modification of transfer are not approved by the Hon'ble Chief Minister.

viii. The impugned orders are violative of the guidelines and vitiated by political interference.

9. On the other hand, Smt.Rakshitha D.J., learned counsel appearing for the 2nd to 7th respondents - KPTCL would urge the following contentions:

- i. *Transfer being an incidence of service, the petitioner cannot claim that he should occupy a particular place.*
- ii. *The action of the continuance of the eighth respondent and transfer of the petitioner are approved by the Hon'ble the Chief Minister **though it is a post facto approval.***
- iii. *The allegation of political interference in the impugned transfer by the petitioner is imaginary as the Member of the Legislative Assembly is entitled to seek a particular Officer to perform the duties of his Office in his constituency.*
- iv. *The petitioner did not take charge of the post at Varthur (O & M) for him to contend that it is in violation of the operative guidelines.*
- v. *The petitioner has suppressed the pendency of the earlier writ petition while preferring the second writ petition and on that ground, the writ petitions should be dismissed.*

10. Learned counsel appearing for the 8th respondent has made a solitary submission that transfer is an incidence of service and neither the petitioner nor the eighth respondent has any right over the post. It is the choice of the KPTCL and KPTCL has chosen to continue the 8th respondent in the post he was functioning at Varthur (O & M). Therefore, writ petitions be dismissed.

11. I have given my anxious consideration to the submissions made by the learned counsel appearing for the respective parties and have perused the material on record.

12. In furtherance of the respective submissions made by the learned counsel appearing for the parties, perusal of the material on record and the original records, in my considered view, the illegalities that would vitiate the

orders of transfer impugned, in the cases at hand, are three fold; I deem it appropriate to unfold them one by one.

FIRST FOLD:

13. The transfer being an incidence of service is by now rendered a *cliché* but such transfers are regulated by statutes, circulars, guidelines, which bind both the employer and the employee. The guidelines dated 07.06.2013, is the one that is presently holding the field, regulating transfers of the officers and employees of the State Government. The KPTCL has adopted the same *mutatis mutandis* by its order dated 22.06.2013. Therefore, the case at hand will have to be considered on the touch stone of the guidelines dated 07.06.2013, as adopted by the KPTCL on 22.06.2013. The said guidelines, therefore are the ones that regulate the transfer of the personnel in the KPTCL as well.

The facts:

14. The petitioner who was working at Kadugodi (O & M), BESCOM E-4, Sub-Division, Whitefield, was

transferred in place of the eighth respondent – Mahadev S., who was working as Assistant Engineer (elec.) at Varthur (O & M), BESCO and by another order of the same date, one Sri T.K. Gangaraju was posted to the place of the petitioner. The petitioner got himself relieved and permitted reporting of Sri T.K. Gangaraju to his place and sought orders from the hands of the BESCO to report to Varthur (O & M), BESCO, in terms of the order of transfer.

15. The KPTCL has a strange procedure of transferring its personnel. The KPTCL issues an order of transfer of employees to any of the ESCOMs' and the ESCOMs' would issue further posting order, in tune what is passed by the KPTCL. The passage of the order by the KPTCL transferring the personnel to other ESCOMs' will be given effect to, only after the respective ESCOMs' issue such further orders. It is submitted that, this sometimes takes a week, a fortnight a month or two, on a case to case

basis. It is during this period, all these litigations are generally generated.

16. The case at hand is one such case, where the petitioner though is transferred by an order of the KPTCL, the BESCO refuses to issue consequential posting order. This drives the petitioner to this Court in writ petition No.1650/2021. This petition was disposed on 02.02.2021, with the observation (*supra*). The order of transfer was passed on 09.12.2020, even after the disposal of the writ petition, the BESCO did not issue the posting orders. The eighth respondent in the present petition was the fifth respondent in writ petition No.1650/2021, disposed on 02.02.2021. Three months pass by and no order is passed by the BESCO issuing posting orders to the petitioner in tune with the order of transfer dated 09.12.2020. After three months, the order that is passed is on 12.03.2021, retaining the eighth respondent at Varthur (O & M),

BESCOM and directing the petitioner to report to Head Office, without showing any place of posting.

17. Therefore, for three months no order is passed and the order that is passed after three months, is what runs completely counter to the earlier order of transfer. The beneficiary of such retention is the eighth respondent. The only inference that can be drawn is that, at the behest of the eighth respondent, the BESCOM did not issue posting orders in favour of the petitioner. The petitioner is directed to report to Head Office and the eighth respondent is directed to continue in the same place, where he had completed more than two years of minimum tenure as stipulated in the guidelines. Therefore, the original records pertaining to the subject transfer were summoned. The records make glaring revelations, therefore, the note sheet maintained is extracted for the purpose of ready reference.

The note sheet:

18. The note sheet reads as follows:

“ಕರ್ನಾಟಕ ವಿದ್ಯುತ್ ಪ್ರಸರಣ ನಿಗಮ ನಿಯಮಿತ

ಟಿಪ್ಪಣಿ

ವಿಷಯ: ಸಹಾಯಕ ಇಂಜಿನಿಯರ್ (ವಿ) ರವರುಗಳ ವರ್ಗಾವಣೆ ಬಗ್ಗೆ

ಸಂಖ್ಯೆ: ಕವಿಪ್ರನಿ/ಬಿ59/23201/ಭಾಗ- ರ/20- 21

- 1) ಆದೇಶದ ಮೇರೆಗೆ ಕಡತವನ್ನು ಮಂಡಿಸಲಾಗಿದೆ.
- 2) ಸರ್ಕಾರದ ಪ್ರಧಾನ ಕಾರ್ಯದರ್ಶಿಗಳು. ಇಂಧನ ಇಲಾಖೆ ರವರ ಪತ್ರ ಸಂಖ್ಯೆ:ಎನಜೆಫ್ 114 ಇಇಬಿ 2020 ದಿನಾಂಕ:02.12.2020ರಲ್ಲಿನ ಮಾನ್ಯ ಮುಖ್ಯ ಮಂತ್ರಿಯವರ ಅನುಮೋದನೆಯ ಮೇರೆಗೆ ನಿಗಮದ ಅಧಿಕೃತ ಜ್ಞಾಪನ ಸಂಖ್ಯೆ:ಕವಿಪ್ರನಿ/ಬಿ59/11749/ಭಾಗ- 2/2020- 21 ದಿನಾಂಕ:09.12.2020 ರಲ್ಲಿ ಈ ಕೆಳಕಂಡ ಸಹಾಯಕ ಇಂಜಿನಿಯರ್ (ವಿ) ರವರನ್ನು ವರ್ಗಾವಣೆ ಮಾಡಲಾಗಿರುತ್ತದೆ. (ಪತಾಕೆ - ಎ)

3.

ಕ್ರ. ಸಂ.	ಹೆಸರು/ಪಿನ್ (ಶ್ರೀ/ಶ್ರೀಮತಿ)	ಕಾರ್ಯನಿರ್ವಹಿಸುತ್ತಿರುವ ಸ್ಥಳ	ವರ್ಗಾವಣೆ ಮಾಡಲಾದ ಸ್ಥಳ	ಷರಾ
1	ಗಂಗರಾಜು ಟಿ.ಕೆ 16855	ಕಾರ್ಯ ಮತ್ತು ಪಾಲನಾ ಉತ್ತರ ಶಾಖೆ, ನಗರ ಉಪ ವಿಭಾಗ- 1, ತುಮಕೂರು	ಕಾಡುಗೋಡಿ ಘಟಕ, ಕಾರ್ಯ ಮತ್ತು ಪಾಲನಾ 4ನೇ ಪೂರ್ವ ಉಪವಿಭಾಗ, ಬೆವಿಕಂ, ವೈಟ್‌ಫೀಲ್ಡ್	ಶ್ರೀ.ನವೀನ್ ಡಿ ರವರ ಜಾಗಕ್ಕೆ
2	ನವೀನ್ ಡಿ 16706	ಕಾಡುಗೋಡಿ ಘಟಕ, ಕಾರ್ಯ ಮತ್ತು ಪಾಲನಾ 4ನೇ ಪೂರ್ವ ಉಪವಿಭಾಗ, ಬೆವಿಕಂ, ವೈಟ್‌ಫೀಲ್ಡ್	ವರ್ತೂರು ಘಟಕ, ಕಾರ್ಯ ಮತ್ತು ಪಾಲನಾ 4ನೇ ಪೂರ್ವ ಉಪವಿಭಾಗ, ಬೆವಿಕಂ, ವೈಟ್‌ಫೀಲ್ಡ್	ಶ್ರೀ.ಮಹದೇವ ಎಸ್ ರವರ ಜಾಗಕ್ಕೆ

4. ನಿಗಮದ ಅಧಿಕೃತ ಜ್ಞಾಪನ ಸಂಖ್ಯೆ:ಕವಿಪ್ರನಿ/11749/ಭಾಗ- 2/2020- 21 ದಿನಾಂಕ:09.12.2020 ರಲ್ಲಿ ಮಾಡಲಾದ ವರ್ಗಾವಣೆಗೆ ಸಂಬಂಧಿಸಿದಂತೆ, ಶ್ರೀ.ಅರವಿಂದ ಲಿಂಬಾವಳಿ, ಶಾಸಕರು, ಮಹದೇವಪುರ ವಿಧಾನಸಭಾ ಕ್ಷೇತ್ರ ರವರು ಶ್ರೀ.ಮಹದೇವ ಎಸ್. ಸಹಾಯಕ ಇಂಜಿನಿಯರ್ (ವಿ) ರವರನ್ನು ವರ್ತೂರು ಘಟಕ, ಕಾರ್ಯ ಮತ್ತು ಪಾಲನಾ 4ನೇ ಪೂರ್ವ ಉಪವಿಭಾಗ, ಬೆವಿಕಂ, ವೈಟ್‌ಫೀಲ್ಡ್ ಇಲ್ಲಿಯೇ ಮುಂದುವರಿಸುವಂತೆ ಕೋರಿರುವ ಹಿನ್ನೆಲೆಯಲ್ಲಿ ನಿಗಮದ ದಿನಾಂಕ:09.12.2020 ರ ಆದೇಶಗಳನ್ನು ಹಿಂಡೆಯುವ ವಿಷಯದಲ್ಲಿ ಕಡತ ಸಂಖ್ಯೆ:ಕವಿಪ್ರನಿ/ಬಿ59/11749/ಭಾಗ-

2/2020- 21 ರಲ್ಲಿ ಮುಂದಿನ ಆದೇಶ ಕೋರಿ ಕಡತವನ್ನು ಅನುಮೋದನೆಗಾಗಿ ಸರ್ಕಾರಕ್ಕೆ ದಿನಾಂಕ:17.12.2020ರಂದು ಸಲ್ಲಿಸಲಾಗಿರುತ್ತದೆ.

5. ಕವಿಪ್ರನಿನಿಯ ದಿನಾಂಕ:09.12.2020 ರ ಅಧಿಕೃತ ಜ್ಞಾಪನದ ಅನ್ವಯ ಬೆವಿಕಂ ನ ಅಧಿಕೃತ ಜ್ಞಾಪನ ಸಂಖ್ಯೆ:ಬೆವಿಕಂ/ಬಿಸಿ31/114/2020- 21/852 ದಿನಾಂಕ:06.03.2021 ರಲ್ಲಿ ಶ್ರೀ.ನವೀನ್ ಡಿ. ಸಹಾಯಕ ಇಂಜಿನಿಯರ್ (ಎ) ಕಾಡುಗೋಡಿ ಘಟಕ, ಕಾರ್ಯ ಮತ್ತು ಪಾಲನ 4ನೇ ಪೂರ್ವ ಉಪವಿಭಾಗ, ಬೆವಿಕಂ, ವೈಟ್‌ಫೀಲ್ಡ್ ರವರನ್ನು ಶ್ರೀ.ಮಹದೇವ ಎಸ್. ಸಹಾಯಕ ಇಂಜಿನಿಯರ್ (ಎ) ವರ್ತೂರು ಘಟಕ, ಕಾರ್ಯ ಮತ್ತು ಪಾಲನ 4ನೇ ಪೂರ್ವ ಉಪವಿಭಾಗ, ಬೆವಿಕಂ, ವೈಟ್‌ಫೀಲ್ಡ್ ಇಲ್ಲಿಗೆ ವರ್ಗಾವಣೆ ಮಾಡಿರುವುದನ್ನು ಸ್ವೀಕರಿಸಲಾಗಿರುತ್ತದೆ. (ಪತಾಕೆ - ಬಿ)

6. ಮುಂದುವರೆದು, ಶ್ರೀ.ಅರವಿಂದ ಲಿಂಬಾವಳಿ, ಶಾಸಕರು, ಮಹದೇವಪುರ ವಿಧಾನಸಭಾ ಕ್ಷೇತ್ರ ರವರು ದಿನಾಂಕ:09.03.2021 ರ ಪತ್ರದಲ್ಲಿ ಶ್ರೀ.ಮಹದೇವ ಎಸ್. ಸಹಾಯಕ ಇಂಜಿನಿಯರ್ (ಎ) ವರ್ತೂರು ಘಟಕ, ಕಾರ್ಯ ಮತ್ತು ಪಾಲನ 4ನೇ ಪೂರ್ವ ಉಪವಿಭಾಗ, ಬೆವಿಕಂ, ವೈಟ್‌ಫೀಲ್ಡ್ ರವರ ಜಾಗಕ್ಕೆ ಶ್ರೀ.ನವೀನ್ ಡಿ. ಸಹಾಯಕ ಇಂಜಿನಿಯರ್ (ಎ) ರವರನ್ನು ನಿಗಮದ ಅಧಿಕೃತ ಜ್ಞಾಪನ ಸಂಖ್ಯೆ:ಕವಿಪ್ರನಿನಿ/ಬಿ59/11749/ಭಾಗ- 2/2020- 21 ದಿನಾಂಕ:09.12.2020 ರಲ್ಲಿ ವರ್ಗಾವಣೆ ಮಾಡಿರುವುದನ್ನು ರದ್ದುಪಡಿಸಿ, ಶ್ರೀ.ಮಹದೇವ ಎಸ್. ಸ.ಇಂ(ಎ) ರವರನ್ನು ವರ್ತೂರು ಘಟಕ, ಕಾರ್ಯ ಮತ್ತು ಪಾಲನ 4ನೇ ಪೂರ್ವ ಉಪವಿಭಾಗ, ಬೆವಿಕಂ, ವೈಟ್‌ಫೀಲ್ಡ್ ಇಲ್ಲಿಯೇ ಮುಂದುವರೆಸುವಂತೆ ಕೋರಿರುತ್ತಾರೆ. (ಪತಾಕೆ - ಸಿ)

7. ಆದರಂತೆ, ಮೌಖಿಕ ಆದೇಶದ ಅನ್ವಯ ನಿಗಮದ ಅಧಿಕೃತ ಜ್ಞಾಪನ ಸಂಖ್ಯೆ:ಕವಿಪ್ರನಿನಿ/ಬಿ59/11755/ಭಾಗ- 1/2020- 21 ದಿನಾಂಕ:10.03.2021 ರಲ್ಲಿ ಶ್ರೀ.ನವೀನ್ ಡಿ. ಸಹಾಯಕ ಇಂಜಿನಿಯರ್ (ಎ), ಕಾಡುಗೋಡಿ ಘಟಕ, ಕಾರ್ಯ ಮತ್ತು ಪಾಲನ 4ನೇ ಪೂರ್ವ ಉಪವಿಭಾಗ, ಬೆವಿಕಂ, ವೈಟ್‌ಫೀಲ್ಡ್ ರವರನ್ನು ಶ್ರೀ.ಮಹದೇವ ಎಸ್. ಸಹಾಯಕ ಇಂಜಿನಿಯರ್ (ಎ), ವರ್ತೂರು ಘಟಕ, ಕಾರ್ಯ ಮತ್ತು ಪಾಲನ 4ನೇ ಪೂರ್ವ ಉಪವಿಭಾಗ, ಬೆವಿಕಂ, ವೈಟ್‌ಫೀಲ್ಡ್ ಇಲ್ಲಿಗೆ ವರ್ಗಾವಣೆ ಮಾಡಿರುವುದನ್ನು ರದ್ದುಪಡಿಸಿ ಶ್ರೀ.ಮಹದೇವ ಎಸ್. ಸಹಾಯಕ ಇಂಜಿನಿಯರ್ (ಎ) ರವರನ್ನು ವರ್ತೂರು ಘಟಕ, ಕಾರ್ಯ ಮತ್ತು ಪಾಲನ 4ನೇ ಪೂರ್ವ ಉಪವಿಭಾಗ, ಬೆವಿಕಂ, ವೈಟ್‌ಫೀಲ್ಡ್ ಇಲ್ಲಿಯೇ ಮುಂದುವರೆಸಲಾಗಿರುತ್ತದೆ. ಮುಂದುವರೆದು ಶ್ರೀ.ನವೀನ್ ಡಿ. ಸಹಾಯಕ ಇಂಜಿನಿಯರ್ (ಎ) ರವರನ್ನು ನಿಗಮ ಕಾರ್ಯಾಲಯಕ್ಕೆ ವರದಿ ಮಾಡಿಕೊಳ್ಳುವಂತೆ ಸೂಚಿಸಲಾಗಿರುತ್ತದೆ. (ಪತಾಕೆ - ಡಿ) ಆದರೆ, ಶ್ರೀ.ನವೀನ್ ಡಿ ರವರು ನಿಗಮ ಕಾರ್ಯಾಲಯಕ್ಕೆ ವರದಿ ಮಾಡಿಕೊಂಡಿರುವುದಿಲ್ಲ.

8. ಬೆವಿಕಂ ನ ಅಧಿಕೃತ ಜ್ಞಾಪನ ಸಂಖ್ಯೆ:ಬೆವಿಕಂ/ಬಿಸಿ31/114/2020- 867 ದಿನಾಂಕ:12.03.2021 ರಲ್ಲಿ ಶ್ರೀ.ಮಹದೇವ ಎಸ್. ಪಿನ್:15941, ಸಹಾಯಕ ಇಂಜಿನಿಯರ್ (ವಿ) ರವರನ್ನು ವರ್ತೂರು ಘಟಕ, ಕಾರ್ಯ ಮತ್ತು ಪಾಲನ 4ನೇ ಪೂರ್ವ ಉಪವಿಭಾಗ, ಬೆವಿಕಂ, ವೈಟ್‌ಫೀಲ್ಡ್ ಇಲ್ಲಿಯೇ ಮುಂದುವರೆಸಿ ಆದೇಶಿಸಿರುವುದನ್ನು ಸ್ಥಿರೀಕರಿಸಲಾಗಿರುತ್ತದೆ. (ಪತಾಕೆ - ಇ)

9. ಈ ವಿಷಯದಲ್ಲಿ ಮೌಖಿಕ ಆದೇಶದ ಅನ್ವಯ ಶ್ರೀ.ನವೀನ್ ಡಿ. ಸಹಾಯಕ ಇಂಜಿನಿಯರ್ (ವಿ) ರವರನ್ನು 66/11 ಕೆವಿ ವಿದ್ಯುತ್ ಉಪಕೇಂದ್ರ, ಕವಿಪ್ರನಿನಿ, ರಾಜನಕುಂಟೆ ಇಲ್ಲಿಗೆ ನಿಗಮದ ಅಧಿಕೃತ ಜ್ಞಾಪನ ಸಂಖ್ಯೆ:ಕವಿಪ್ರನಿನಿ/ಬಿ59/11755/ಭಾಗ- 1/2020- 21 ದಿನಾಂಕ:05.04.2021 ರಲ್ಲಿ ವರ್ಗಾವಣೆ ಮಾಡಲಾಗಿರುತ್ತದೆ. (ಪತಾಕೆ- ಎಫ್) ಆದರೆ, ಶ್ರೀ.ನವೀನ್ ಡಿ ರವರು ಇಲ್ಲಿಗೂ ಕರ್ತವ್ಯಕ್ಕೆ ವರದಿ ಮಾಡಿಕೊಂಡಿರುವುದಿಲ್ಲ.

10. ಮುಂದುವರೆದು, ಶ್ರೀ.ನವೀನ್ ಡಿ. ಸಹಾಯಕ ಇಂಜಿನಿಯರ್ (ವಿ) ರವರು ಮೇಲ್ಕಂಡ ವರ್ಗಾವಣೆಗಳ ವಿಷಯಕ್ಕೆ ಸಂಬಂಧಿಸಿದಂತೆ ಮಾನ್ಯ ಉಚ್ಚ ನ್ಯಾಯಾಲಯದಲ್ಲಿ ಈ ಕೆಳಕಂಡ ರಿಟ್ ಅರ್ಜಿಗಳನ್ನು ಸಲ್ಲಿಸಿರುತ್ತಾರೆ.

1. ರಿಟ್ ಅರ್ಜಿ ಸಂಖ್ಯೆ:1650/2021 ವಜಗೊಂಡಿರುತ್ತದೆ.
2. ರಿಟ್ ಅರ್ಜಿ ಸಂಖ್ಯೆ:5399/2021 ಚಾಲ್ತಿಯಲ್ಲಿ ಇರುತ್ತದೆ.
3. ರಿಟ್ ಅರ್ಜಿ ಸಂಖ್ಯೆ:8952/2021 ಚಾಲ್ತಿಯಲ್ಲಿದ್ದು, ಮುಂದಿನ ವಿಚಾರಣೆ 28.06.2021 ರಂದು ಇರುತ್ತದೆ.

11. ಮೇಲಿನ ವಿವರಗಳನ್ನು ಅವಗಾಹನೆಗಾಗಿ ಸಲ್ಲಿಸುತ್ತಾ,

1. ನಿಗಮದ ಅಧಿಕೃತ ಜ್ಞಾಪನ ಸಂಖ್ಯೆ: ಕವಿಪ್ರನಿನಿ / ಬಿ59 / 11749/ಭಾಗ-2/2020-21 ದಿನಾಂಕ:09.12.2020 ರಲ್ಲಿ ಮಾಡಲಾದ ವರ್ಗಾವಣೆಯನ್ನು ರದ್ದುಪಡಿಸಿ ಶ್ರೀ.ಮಹದೇವ ಎಸ್, ಸಹಾಯಕ ಇಂಜಿನಿಯರ್ (ವಿ) ರವರನ್ನು ವರ್ತೂರು ಘಟಕ, ಕಾರ್ಯ ಮತ್ತು ಪಾಲನ 4ನೇ ಪೂರ್ವ ಉಪವಿಭಾಗ, ಬೆವಿಕಂ, ವೈಟ್‌ಫೀಲ್ಡ್ ಇಲ್ಲಿಯೇ ಮುಂದುವರೆಸಲಾಗಿರುತ್ತದೆ ಹಾಗೂ ಶ್ರೀ.ನವೀನ್ ಡಿ, ಸಹಾಯಕ ಇಂಜಿನಿಯರ್ (ವಿ) ರವರನ್ನು ನಿಗಮ ಕಾರ್ಯಾಲಯಕ್ಕೆ ವರದಿ ಮಾಡಿಕೊಳ್ಳುವಂತೆ ನಿಗಮದ ಅಧಿಕೃತ ಜ್ಞಾಪನ ಸಂಖ್ಯೆ: ಕವಿಪ್ರನಿನಿ /ಬಿ59/11755/ಭಾಗ-1/2020-21 ದಿನಾಂಕ:10.03.2021 ರಲ್ಲಿ ಸೂಚಿಸಲಾಗಿರುತ್ತದೆ. (ಪತಾಕೆ- ಡಿ)

ಹಾಗೂ

2. ಶ್ರೀ.ನವೀನ್ ಡಿ, ಸಹಾಯಕ ಇಂಜಿನಿಯರ್ (ವಿ) ರವರನ್ನು 66/11 ಕೆವಿ ವಿದ್ಯುತ್ ಉಪಕೇಂದ್ರ, ಕವಿಪ್ರನಿನಿ, ಹಾಜನಕುಂಟೆ ಇಲ್ಲಿಗೆ ನಿಗಮದ ಅಧಿಕೃತ ಜ್ಞಾಪನ ಸಂಖ್ಯೆ: ಕವಿಪ್ರನಿನಿ / ಬಿ59 /11755/ಭಾಗ- 1/2020- 21 ದಿನಾಂಕ:05.04.2021 ರಲ್ಲಿ ವರ್ಗಾವಣೆ ಮಾಡಲಾಗಿರುತ್ತದೆ. (ಏತಾಕೆ - ಎಫ್)

12. ಶ್ರೀ.ನವೀನ್ ಡಿ, ರವರು ಹೂಡಲಾದ ರಿಟ್ ಅರ್ಜಿ ಸಂಖ್ಯೆ:8952/2021 ಯ ಮುಂದಿನ ವಿಚಾರಣೆ 28.06.2021 ರಂದು ಇರುವುದರಿಂದ ಈ ಮೇಲ್ಕಂಡ ಕಂಡಿಕೆ- 11ರ ಕ್ರ.ಸಂಖ್ಯೆ- (1) & (2) ರಲ್ಲಿ ಮಾಡಲಾದ ನಿಗಮದ ಆದೇಶಗಳನ್ನು ಸರ್ಕಾರಕ್ಕೆ ಘಟನೋತ್ತರ ಅನುಮೋದನೆಗಾಗಿ ಸಲ್ಲಿಸುವ ನಿಷಯದಲ್ಲಿ ಮುಂದಿನ ಆದೇಶ ಕೋರಿ ಕಡತವನ್ನು ಮಂಡಿಸಲಾಗಿದೆ.

ಸಹಿ/-
2/6/2021

(emphasis added)

What is **latent** becomes **patent** on a perusal of the note sheet of the KPTCL as extracted hereinabove. Two glaring factors emerge in the note sheet. One, the order of transfer dated 09.12.2020, was with the prior approval of the Hon'ble Chief Minister. Other, the order continuing the 8th respondent at Varthur (O & M) Sub-division, is without the prior approval of the Hon'ble Chief Minister, as the records reveal that a *post facto* approval is sought from the hands of the Hon'ble Chief Minister. In the light of the

aforesaid facts, it is necessary to notice the relevant clauses of the guidelines dated 07.06.2013. Clause 8 of the guidelines depict minimum tenure of all groups of officers. Groups 'A' and 'B' to be two years, Group 'C' is four years and Group 'D' is seven years. Clause 9 of the guidelines deals with premature or delayed transfer. Clause 9 of the guidelines reads as follows:

"9. Premature/delayed Transfer

a. Generally there should be no premature transfers. The tenure of posting of a Government servant may be extended or reduced by the Competent Authority in the following cases after recording the reasons for the same in writing. The minimum period of stay at a place as prescribed in para 8 can be reduced and the servant transferred concerned Government prematurely if the competent authority feels that he or she is not suitable for discharging the duties at the present place and the reasons recorded to this effect in writing:-

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*b. However, before effecting any premature transfers and for making any transfer after the transfer period, **and also for extending the tenure of a Government servant for the reasons stated above, prior approval of the Hon'ble Chief Minister must be obtained without fail by the concerned Administrative Department of the Secretariat. The Principal Secretaries/Secretaries to Government should not under any circumstances issue transfer orders and later seek ratification/post facto approval of the Chief Minister.***

(emphasis supplied)

Clause 9 (*supra*) regulates premature, delayed transfer and extension of tenure of government servants and depict two circumstances in which prior approval of the Hon'ble Chief Minister becomes a pre-condition for effecting any order of transfer viz., where premature transfers are to be given effect to which would be where an officer is transferred prior to his completion of minimum tenure as obtaining under Clause 8 of the

guidelines and the other circumstance is extending the tenure of the Government servant for the reasons indicated, prior approval of the Hon'ble Chief Minister shall be obtained. It is fortified by the mandate that Government should not under any circumstance issue a transfer order and later seek ratification of *post-facto* approval of the Hon'ble Chief Minister.

19. The tenor of the guidelines being as aforesaid and the guidelines being held to have a statutory force by two Full Bench judgments of this Court in the cases of **H.N.CHANDRU V. STATE OF KARNATAKA AND OTHERS¹** and **S.N.GANGADHARAI AH, K.A.S. V. STATE OF KARNATAKA AND ANOTHER²**, the aforesaid clauses become mandatory.

20. As noted hereinabove, in the case at hand, for continuing the 8th respondent in the place where the petitioner was transferred i.e., Varthur (O & M), did not

¹ 2011 (3) KLJ 562

² ILR 2015 KAR 1955

bear the stamp of prior approval of the Hon'ble Chief Minister. This fact cannot be in dispute as a perusal of the original records clearly indicates that during the pendency of the subject writ petitions, in which the impugned order of transfer of continuing the 8th respondent was challenged, the file was placed before the Hon'ble Chief Minister for a *post-facto* approval. Therefore, the act of continuance of the 8th respondent falls foul of the afore-quoted guidelines, which in unequivocal terms mandate prior approval to be sought. Therefore, the first fold of illegality that is unfolded hereinabove vitiates continuance of the 8th respondent in the place where the petitioner was posted for want of prior approval at the hands of the Hon'ble Chief Minister.

SECOND FOLD:-

21. The impugned order dated 05-04-2021, does not show any place of posting to the petitioner while continuing the eighth respondent in the place that the

petitioner was posted. It is a separate order of transfer which continues the eighth respondent and directs the petitioner to approach the Head Office and await transfer orders/posting orders. It is, therefore, a clear case where the petitioner is left high and dry without being shown any posting. It is apposite to refer to the judgment of the Division Bench of this Court in the case of **SEEMA H. v. STATE OF KARNATAKA**³, wherein it is held as follows:

*“7. There are two serious infirmities in the transfer order. One is that when the petitioner is transferred from the post of Assistant Conservator of Forest, there is no deer posting order at a Particular post of the petitioner. Unless the petitioner is lifted from one place and posted at another place, it cannot be said that any vacancy has arisen of the petitioner and such an exercise of the power cannot be appreciated even if one keeps in mind the administrative circumstances for the public interest as the case may be. **It is hardly required to be stated that when ‘A’***

³ (2017) 2 AIR Kant R 59

is posted in place of 'B' from one place to another then only there will be a vacancy of 'A' and 'B' can be posted at the place of 'A'. If 'A' is lifted and his posting is kept in lurch and 'B' is posted vice-A such practice cannot be appreciated and deserves to be rather deprecated and the reason being that the officer who is lifted from one place is not certain at which place he has to join the duty and unless he joins the duty at different place, it cannot be said that vacancy in law had arisen at his original place. So long as there is no vacancy at the original place, the question of posting is without any foundation. Hence, the said transfer order can be said to be with the exercise of legal malafide.

9. In our view, taking into consideration the aforesaid two circumstances, it is a case for interference with the transfer order. However, the Tribunal lost sight of the said aspects and did not interfere with the order of the transfer just because of the Chief Minister's approval.

We need to record the approval of the Chief Minister though may be one of the requirement but thereby, if there is any other requirement for the transfer order, the same also needs to be examined. If the Tribunal finds that the transfer order is either by way of victimization or ex facie with legal malafide or otherwise it would be a case for interference. Since the aforesaid aspects were not considered by the Tribunal, we find the impugned order passed by the Tribunal as well as the order for transfer of the petitioner deserves to be interfered with.

10. Once the transfer order of the petitioner is found to be illegal, the necessary consequence posting of the petitioner will have to be restored at the original place i.e., the Assistant Conservator of Forest. It has been stated that when the petitioner and another Officer-respondent No. 4 has already taken over the charge. In these circumstances, the said Officer will have to be shifted to another place. We had called upon learned AGA to enquire and

report this Court as to whether the post of Assistant Conservator of Forest is vacant where the respondent No. 4 can be accommodated.”

(emphasis supplied)

The said judgment is again reiterated in an identical circumstance by a Division of this Court in the case of ***KANTHEPPA V. STATE OF KARNATAKA***⁴. With the undisputed fact of the petitioner not being shown any posting, continuing the eighth respondent by an independent order and the judgments of the Division Bench (*supra*), what would unmistakably emerge is, the petitioner is moved out, by modification / cancellation of the earlier order, to accommodate the eighth respondent. The Division Bench holds that such act of accommodation, on the face of it, is *mala fide*. Therefore the second fold of illegality is the *mala fide* action of the respondent/KPTCL in continuing the 8th respondent and transferring the petitioner without showing any posting,

⁴ ILR 2020 KAR 5511

though the petitioner was never permitted to report at the place of transfer. The second fold as unfolded hereinabove vitiates the order of transfer of the petitioner directing him to report to the Head Office.

FINAL FOLD:-

22. The afore-quoted note sheet becomes imperative to be considered at this juncture. The note sheet also indicates the entire action of making the petitioner to move from pillar to post and continue the eighth respondent is at the behest of a Minister of the Government of Karnataka. Therefore, this is a case where the entire proceedings would get vitiated on account of political interference.

23. The learned counsel appearing for the KPTCL places reliance upon the judgment of the Apex Court in the case of **MOHD. MASOOD AHMAD v. STATE OF U.P. AND OTHERS**⁵, to contend that the transfer of a

⁵ (2007) 8 SCC 150

Government servant on the recommendation of a Member of the Legislative Assembly does not vitiate the transfer order. The said judgment of the Apex Court is distinguishable without much ado. The Apex Court at paragraph 8 of the said judgment holds as follows:

“8. Learned counsel for the appellant submitted that the impugned transfer order of the appellant from Muzaffarnagar to Mawana, District Meerut was made at the instance of an MLA. On the other hand, it has been stated in the counter affidavit filed on behalf of respondent Nos. 1 & 2 that the appellant has been transferred due to complaints against him. In our opinion, even if the allegation of the appellant is correct that he was transferred on the recommendation of an MLA, that by itself would not vitiate the transfer order. After all, it is the duty of the representatives of the people in the legislature to express the grievances of the people and if there is any complaint against an official the State government is certainly within its jurisdiction to transfer such an employee. There can be no hard and fast rule

that every transfer at the instance of an M.P. or MLA would be vitiated. It all depends on the facts & circumstances of an individual case. In the present case, we see no infirmity in the impugned transfer order."

In terms of the aforesaid observations of the Apex Court what becomes clear is that transfer was sought by the MLA on the ground that the incumbent officer had several complaints against him. The MLA being the representative of the people was entitled to get the officer transferred on the allegation. The Apex Court holds that it was the duty of the representative of the people in the Legislature to express the grievance of the people and if there are any complaints against the officer it would certainly be within the jurisdiction of the MLA to get such an officer transferred. These are not the facts in the case at hand. Political interference is generated by a Minister when the petitioner did not even take charge of the post. The impugned action at the behest of the Minister is only for showing favouritism to the 8th respondent by directing

that he shall be continued in office and the petitioner be sent out by modification of the order of transfer.

24. The Apex Court in the case of **SARVESH KUMAR AWASTHI v. U.P. JAL NIGAM AND OTHERS**⁶ – has held as follows:

“4. In our view, transfer of officers is required to be effected on the basis of set norms or guidelines. The power of transferring an officer cannot be wielded arbitrarily, mala fide or an exercise against efficient and independent officer or at the instance of politicians whose work is not done by the officer concerned. For better administration the officers concerned must have freedom from fear of being harassed by repeated transfers or transfers ordered at the instance of someone who has nothing to do with the business of administration.”

In terms of undisputed glaring facts and the judgment of the Apex Court supra, the proceedings of transfer impugned in the case at hand would get vitiated as it is at the instance of a politician/Hon'ble Minister. In my view, political interference in transfers and posting of officers would result in politicization of public office,

⁶(2003) 11 SCC 740

which would result in putting public efficiency and good administration to peril, the interference of any kind, be it written or oral. The result of the illegalities is the continuance of the eighth respondent at Varthur (O & M), BESCO, E-4 Sub-Division and transferring the petitioner to Rajanakunte. Therefore, the final fold of illegality vitiates the entire proceedings on account of political interference. Thus, all the illegalities as unfolded hereinabove would vitiate all subsequent actions of the KPTCL or the BESCO as the case would be in the aftermath of the order of transfer dated 09-12-2020.

25. It is germane at this juncture to notice the strange procedure that the KPTCL adopts in transferring its personnel to any of the ESCOMs'. The KPTCL issues a transfer order transferring officers to offices which come within the control of ESCOMs'. Later ESCOMs' issue further orders of transfer directing the officer so transferred by the KPTCL to report for duty at the place of

posting. Therefore, till respective ESCOMs' issue such orders directing reporting for duty, the officers who hold the order of transfer issued by the KPTCL are left in limbo. It is this interregnum that generates litigation. The case at hand is a classic one where the period between the KPTCL issuing the order of transfer on 09-12-2020, till it is modified on 12-03-2021, the aforesaid illegalities creep in. It is brought to the notice of this Court by the learned counsel for the KPTCL, that the KPTCL has issued a circular on 05-01-2021, which directs that the officers who are transferred by the KPTCL, the follow up orders are to be issued within one week. The said circular reads as follows:

"ಕರ್ನಾಟಕ ವಿದ್ಯುತ್ ಪ್ರಸಾರಣ ನಿಗಮ ನಿಯಮಿತ

ನಿಗಮದ ಗುರುತಿನ ಸಂಖ್ಯೆ(ಸಿ.ಐ.ಎಸ್), ಯು40100ಕೆಎಕಾಇಂಎಸ್,5020021
ಕಂಪನಿ ಅಧಿಕೃತ ಕಛೇರಿ, ನಿಗಮ ಕಾರ್ಯಾಲಯ, ಕಾವೇರಿ ಭವನ, ಕೆ.ಜಿ.ರಸ್ತೆ,
ಬೆಂಗಳೂರು - 560 009
ಸಂಖ್ಯೆ:ಕವಿಪ್ರನಿ/ಬಿಬಿಎ/ಎಸ್.ಎ.ಡಿ/5474/07-2012, ದಿನಾಂಕ 5 ಜನವರಿ 2021

ಸುತ್ತೋಲೆ

ವಿಷಯ: ವರ್ಗಾವಣೆ ಆದೇಶಗಳನ್ನು ಅನುಷ್ಠಾನಗೊಳಿಸುವ ಬಗ್ಗೆ.

ಕರ್ನಾಟಕ ವಿದ್ಯುತ್ ಪ್ರಸಾರಣ ನಿಗಮ ನಿಯಮಿತದ ನಿಗಮ ಕಾರ್ಯಾಲಯದಿಂದ ಅಧಿಕಾರಿಗಳನ್ನು ಮತ್ತು ನೌಕರರನ್ನು 'ನಿಗಮದ ಕೆಲಸಗಳ ಹಿತದೃಷ್ಟಿಯಿಂದ' ಮತ್ತು "ಅಧಿಕಾರಿಗಳು ಮತ್ತು ನೌಕರರ ಕೋರಿಕೆಗಳ" ಹಿನ್ನೆಲೆಯಲ್ಲಿ ವರ್ಗಾವಣೆಯ ಸಂದರ್ಭದಲ್ಲಿ ಆದೇಶಗಳನ್ನು ಜಾರಿಗೊಳಿಸುತ್ತಿದ್ದು, ವರ್ಗಾವಣೆಯ ಸಂಬಂಧದಲ್ಲಿ ಅಧಿಕಾರಿಗಳನ್ನು ಮತ್ತು ನೌಕರರನ್ನು ಸಂಬಂಧಿಸಿದ ಕಛೇರಿಗಳ ಮೇಲಾಧಿಕಾರಿಗಳು ನಿಗದಿತ ಅವಧಿಯೊಳಗೆ ಕಾರ್ಯಮುಕ್ತಿಗೊಳಿಸುತ್ತಿಲ್ಲದಿರುವುದನ್ನು ನಿಗಮವು ಬಹಳ ಗಂಭೀರವಾಗಿ ಪರಿಗಣಿಸಿದೆ.

ಆದ್ದರಿಂದ, ಇನ್ನು ಮುಂದೆ ಕವಿಪ್ರನಿನಿ ನಿಗಮ ಕಾರ್ಯಾಲಯದಿಂದ ಜಾರಿಗೊಳಿಸುವ ವರ್ಗಾವಣೆ ಆದೇಶಗಳಂತೆ ವರ್ಗಾವಣೆಯ ಸಂಬಂಧದಲ್ಲಿ ಅಧಿಕಾರಿಗಳನ್ನು ಮತ್ತು ನೌಕರರನ್ನು ವರ್ಗಾವಣೆ ಆದೇಶವು ಜಾರಿಗೊಂಡ ಏಳು ದಿನಗಳೊಳಗಾಗಿ ಅಥವಾ ವರ್ಗಾವಣೆ ಆದೇಶದಲ್ಲಿ ಕಾರ್ಯ ಮುಕ್ತಿಗೊಳ್ಳಲು ಸೂಚಿಸಿದ ಅವಧಿಯೊಳಗೆ ಸಂಬಂಧಿಸಿದ ಕಛೇರಿಗಳ ಮೇಲಾಧಿಕಾರಿಗಳು ಕಾರ್ಯಮುಕ್ತಿಗೊಳಿಸಲು ಸೂಚಿಸಿದೆ.

ವರ್ಗಾವಣೆಯಲ್ಲಿರುವ ಅಧಿಕಾರಿಗಳನ್ನು ಮತ್ತು ನೌಕರರನ್ನು ಕಾರ್ಯಮುಕ್ತಿಗೊಳಿಸದ ಸಂಬಂಧಿಸಿದ ಅಧಿಕಾರಿಗಳ ವಿರುದ್ಧ ಸೂಕ್ತ ಶಿಸ್ತು ಕ್ರಮವನ್ನು ಜರುಗಿಸಲಾಗುವುದು.

ಸಹಿ/-5.1.2021

ನಿರ್ದೇಶಕರು (ಆಡಳಿತ ಮತ್ತು ಮಾ.ಸಂ)
ಕವಿಪ್ರನಿನಿ."

Therefore, it is a case where suitable directions are to be issued to the respondents to strictly adhere to the circular dated 05.01.2021 and not make it to remain only on paper and whenever KPTCL issues an order of transfer, without any loss of time BESCO or any of the ESCOMs' to which the officers/employees are transferred shall issue consequential transfer / movement order

strictly in obedience to the circular (*supra*) and complete the entire process within one week from the date of issuance of the order of transfer by the KPTCL, failing which there would be mushrooming of cases of the kind, as obtaining in the case at hand being brought before the Court.

26. For the aforesaid reasons, I pass the following:

ORDER

- (i) The Writ Petitions are allowed.
- (ii) The impugned Order dated 10-03-2021 (Annexure-P in Writ Petition No.5399 of 2021), and Order dated 12-03-2021 as also Order dated 05-04-2021 (Annexure-K in Writ Petition No.8952 of 2021) stand quashed.
- (iii) The petitioner shall be permitted to report at Varthur (O & M) forthwith by giving effect to the order of transfer dated 09.12.2020.
- (iv) The petitioner shall be entitled to all consequential benefits that would flow from quashing of the orders (*supra*) including the salary for the entire period, if not paid, as the

petitioner was made to roam from pillar to post.

- (v) The aforesaid direction No.(iii) shall remain subject to the conditions stipulated in the guidelines dated 07-06-2013.

**Sd/-
JUDGE**

nvj/CT:MJ