



**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 17<sup>TH</sup> DAY OF MARCH, 2023**

**PRESENT**

**THE HON'BLE MR JUSTICE G.NARENDAR**

**AND**

**THE HON'BLE MR JUSTICE M.G.S. KAMAL**

**WRIT PETITION NO. 4914 OF 2023 (S-KSAT)**

**BETWEEN:**

SRI. RAVI M. TIRLAPUR  
S/O. LATE M.B. TIRLAPUR  
AGED ABOUT 52 YEARS  
WORKING AS CHIEF EXECUTIVE OFFICER  
BANGALORE RURAL ZILLA PANCHAYAT  
DEVANAHALLI TALUK  
BANGALORE RURAL - 562 110.

...PETITIONER

(BY SRI. PRITHVEESH M K.,ADVOCATE  
SRI. M.K. PRITHVEESH, ADVOCATE)



**AND:**

1. THE CHIEF SECRETARY TO  
GOVERNMENT OF KARNATAKA  
VIDHANA SOUDHA  
BANGALORE - 560 001.
2. THE PRINCIPAL SECRETARY  
TO GOVERNMENT  
GOVERNMENT OF KARNATAKA



DEPARTMENT OF PERSONNEL AND ADMINISTRATIVE  
REFORMS (SERVICE -1)  
KARNATAKA GOVERNMENT SECRETARIAT.  
VIDHANA SOUDHA  
BANGALORE- 560 001.

- 3 . THE STATE OF KARNATAKA  
REPRESENTED BY ITS PRINCIPAL SECRETARY  
RURAL DEVELOPMENT AND PANCHAYAT  
RAJ DEPARTMENT  
M.S. BUILDING  
BANGALORE - 560 001.
- 4 . SRI. REVANAPPA K.,  
S/O. KATRAPP KADALIGONDI  
AGED ABOUT 59 YEARS AND 6 MONTHS  
WAS WORKING AS CHIEF EXECUTIVE OFFICER  
BANGALORE RURAL DISTRICT ZILLA PANCHAYAT  
DEVANAGALLI TALUK  
BANGALORE RURAL - 562 110.

...RESPONDENTS

(BY PROF. RAVIVARMA KUMAR SR. ADVOCATE FOR  
SRI. B.R. RAGHAVENDRA ADVOCATE FOR C/R4)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226  
AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO  
a)CALL FOR RECORDS PERTAINING TO THE IMPUGNED ORDER  
DATED 23/02/2023 PASSED IN APPLICATION NO.745/2023 BY  
THE HON'BLE KARNATAKA STATE ADMINISTRATIVE TRIBUNAL  
(ANNEXURE-A); b)SET ASIDE THE IMPUGNED ORDER DATED  
23/02/2023 PASSED IN APPLICATION NO.745/2023 BY THE



HON'BLE KARNATAKA STATE ADMINISTRATIVE TRIBUNAL  
(ANNEXURE-A) AND CONSEQUENTLY DISMISS THE SAID  
APPLICATION NO.745/2023 FILED BY THE RESPONDENT NO.4  
HEREIN BEFORE THE HON'BLE KARNATAKA STATE  
ADMINISTRATIVE TRIBUNAL AT BANGALORE (ANNEXURE-  
B).

THIS PETITION BEING HEARD AND RESERVED, COMING  
ON FOR PRONOUNCEMENT OF ORDER, THIS DAY,  
**M.G.S.KAMAL J**, MADE THE FOLLOWING:

### **ORDER**

This writ petition is against the order dated  
23.02.2023 passed in Application No.745/2023 on the file  
of Karnataka State Administrative Tribunal, Bangalore  
(hereafter referred to as the 'Tribunal' for short) in and by  
which, the Tribunal while allowing the said application set  
aside the notification dated 11.02.2023 insofar as the  
same relating to the petitioner and the respondent No.4  
herein and further directed the official respondents 1 to 3



to reinstate the respondent No.4 herein to his present place of posting.

2. The above Application No.745/2023 was filed by the respondent No.4 herein against official respondents 1 to 3 and the petitioner herein as respondent No.4 seeking quash of notification bearing No.e-DPAR 60 SAS 2023 dated 11.02.2023 and also for a direction to Principal Secretary, Government of Karnataka, DPAR -respondent No.2 not to dispossess or transfer or change place of employment of the respondent No.4 on the premise that ;

(a) he had joined service as a Chief Executive Officer, Zilla Panchayat, Bangalore (Rural) District on 15.12.2021 and that he is due to retire from his service on 22.07.2023 and that he has been working in the post of Chief Executive Officer, Zilla Panchayat, Bangalore (Rural) District in terms of a notification dated 15.12.2021 -Annexure-A2. That he had taken charge from one Sri. M.R.Ravikumar on 15.12.2021 instant. That the State Government by a corrigendum dated 19.02.2022 produced at



Annexure-A3 had made certain correction to the earlier notification dated 15.12.2021.

(b) he continued to hold the concurrent charge of the post of Chief Executive Officer even after the issue of the aforesaid corrigendum dated 19.02.2022.

(c) the Deputy Commissioner and District Election Officer, Bangalore Rural District, issued a modified office memorandum bearing No. ELN.CR.67/2022 - 23 dated 06.12.2022 as per Annexure-A4 appointing respondent No.4 as Nodal Officer for the General Assembly Election of the State for the year 2023, wherein his name finds place at Sl.No.1 as Sri.K.Revanappa, Chief Executive Officer, Zilla Panchayat, Bangalore Rural District. That pursuant thereof, respondent No.4 has undergone training to discharge his election duties.

(d) When things stood thus, the respondent No.2 by aforesaid Notification dated 11.02.2023 as per Annexure-A-7 transferred the petitioner herein who was working as a Private Secretary to Ministry for Law, Parliamentary Affairs and Minor Irrigation, Bangalore with immediate effect and posted until further orders as Deputy Secretary, Zilla Panchayat,



Bangalore Rural District, Bangalore to the place of respondent No.4 and also placed the petitioner herein in concurrent charge of the post of Chief Executive Officer, Zilla Panchayat, Bangalore (Rural) District with immediate effect until further orders. That though the said Notification states that the respondent No.4 has been transferred, however, it neither contained the name of respondent No.4 nor his place of posting.

(e) That in terms of clause No.9(a)(i) of the Guidelines regarding transfer of Government servants vide Government order dated 07.06.2013, the tenure of the respondent No.4 was required to be extended till date of his retirement in the same post. That since the respondent No.4 had not completed his full tenure at the present place of posting and he was due for retirement on 31.07.2023, the aforesaid transfer order dated 11.02.2023 was in violation of the Government Order dated 07.06.2013. Hence sought for quashing of the aforesaid notification dated 11.02.2023.



3. Petitioner herein who is respondent No.4 in the aforesaid application filed his reply statement contending *inter alia*;

(a) That in terms of notification dated 11.02.2023 he has been posted as Deputy Secretary, Zilla Panchayat, Bangalore Rural District and is placed on concurrent charge of the post of Chief Executive Officer, Zilla Panchayat, Bangalore Rural District in place of respondent No.4.

(b) That the notification dated 15.12.2021 pursuant to which respondent No.4 who was posted as Chief Executive Officer, Zilla Panchayat, Bangalore Rural District has been modified vide corrigendum dated 19.02.2022 as per Annexure-A3, in terms of which he had been posted as Deputy Secretary, Bangalore Rural District, Bangalore and placed on concurrent charge of the post of Chief Executive Officer, Zilla Panchayat, Bangalore Rural District, Bangalore. That the said corrigendum dated 19.02.2022 was challenged before the Tribunal by one Sri.C.M.Munikrishnappa who was then holding the post of Deputy Secretary, Zilla Panchayat, Bangalore Rural District in Application No.831/2022 wherein respondent No.4 herein had been arraigned as



respondent No.4. That by order dated 08.04.2022 the Tribunal was pleased to dismiss the said Application No.831/2022 with a direction that said Sri.Munikrishnappa not to be disturbed by the corrigendum dated 19.02.2022 and that the said Sri.C.M.Munikrishnappa to be continued in the post of Deputy Secretary, Zilla Panchayat, Bangalore Rural District. That the said order dated 08.04.2022 has attained finality.

(c) That upon the retirement of said Sri.C.M.Munikrishnappa, one Sri.Nagaraju was posted as Deputy Secretary, Zilla Panchayat, Bangalore Rural District vide notification dated 31.05.2022 and he took charge of the said post on 30.06.2022. Thereafter, the respondent No.4 herein who was working as the Chief Executive Officer issued an office order dated 01.07.2022 accepting the reporting of duty of said Dr.Nagaraju.

(d) That the aforesaid fact situation of the matter would reveal that the respondent No.4 was not working as Deputy Secretary, Zilla Panchayat, Bangalore Rural District at all and therefore, question of premature disturbance from his post would not arise.





(e) As regards the post of Chief Executive Officer, Zilla Panchayat, Bangalore Rural District is concerned, respondent No.4 herein was only in concurrent charge of the said post without having any lien over the said post. As such, there is no justification in respondent No.4 to be aggrieved by the notification dated 11.02.2023 posting the petitioner herein to the said post.

(f) As regards the contention of premature transfer in violation of Transfer Guidelines, it is contended that the respondent No.4 has been in Bangalore from 2013 in different posts, as such question of premature transfer would not arise.

(g) Adverting to the ground of respondent No.4 having been entrusted with election duty vide official memorandum dated 06.12.2022 is concerned, it is stated that pursuant to the impugned notification dated 11.02.2023 the work assigned to the respondent No.4 has been re-assigned to the petitioner herein vide revised official memorandum dated 14.02.2023 which is produced at Annexure-R4/5. As such, the ground of respondent No.4 being posted on the election duty would no longer be available to the respondent No.4.



h) As regards the contention of the respondent No.4 of he not having been given any post under the impugned notification of transfer, it is stated that admittedly respondent No.4 was holding post of Chief Executive Officer only as a concurrent charge and was not a regular holder of the post. That in view of the respondent No.4 having accepted the order of the Tribunal passed in Application No.831/2022 it is not open for him to contend that he has no substantial posting.

Hence, sought for dismissal of the application.

4. The Tribunal by the impugned order accepting the contentions of the respondent No.4 allowed the above application quashing the impugned order of transfer dated 11.02.2023 issued by the respondent No.2 as per Annexure -A7 insofar as the respondent No.4 and the petitioner herein are concerned and directed the respondent Nos.1 to 3 to reinstate the respondent No.4 in the present place forthwith if for any reasons he had already been relieved. It further directed if the respondent Nos.1 to 3 had failed to obey the order, the respondent



No.4 was at liberty to assume charge without expecting any movement order from the respondent Nos.1 to 3. It is this order which is impugned in the present writ petition.

5. Sri.P.S.Rajagopal, learned Senior counsel appearing for Sri. M.K.Pruthvish, learned counsel for petitioner reiterating the grounds urged in memorandum of appeal submits that ;

(a) the respondent No.4 was given posting as Director, State Panchayat Resource Centre, Bangalore vide notification dated 15.02.2023 as per Annexure-R4/1/9 against the vacant post and the same not having been challenged in the manner known to law, or previous notifications and orders, the contentions urged by the respondent No.4 regarding their validity or otherwise cannot be considered.

(b) the Tribunal grossly erred in allowing the application filed by the respondent No.4 only on the premise of he not having been given any posting and that he was left with less than 2 years of service before his retirement. The said reasoning was contrary to the material facts made available on



record. Even the contention of respondent No.4 of he having been forced to face the hardship at the fag end of his service was incorrect inasmuch as in terms of notification dated 15.02.2023 he has been posted as Deputy Secretary, within the Bangalore City.

(c) that the Tribunal erred in allowing the application on the erroneous premise of petitioner herein not being eligible to hold the post of Chief Executive Officer in view of provisions of Section 196 of Karnataka Gram Swaraj and Panchayat Raj Act, 1993 as the respondent No.4 had only challenged the legality or otherwise of the transfer order dated 11.02.2023 and there was no need or necessity to go into the question of eligibility.

(d) that despite the petitioner herein filing detailed statement of objections with reference to the documents, the Tribunal grossly erred in not advertng to the same. Though the Tribunal has allowed the application on the ground of premature transfer has however not given any reasons for the same.

(e) that the Tribunal lost sight of the fact that in terms of the notification dated 15.12.2021 the



respondent No.4 was posted as Chief Executive Officer, Zilla Panchayat, Bangalore Rural District, Bangalore, however, the same was modified vide corrigendum dated 19.02.2022 whereby respondent No.4 was posted as Deputy Secretary, Bangalore Rural District, Bangalore and placed on the concurrent charge of the post of Chief Executive Officer, Zilla Panchayat, Bangalore Rural District, Bangalore and that in view of the challenge to the same by Sri.C.M.Munikrishnappa which came to be allowed, the respondent No.4 even lost the said post of Deputy Secretary and after retirement of said Sri.C.M.Munikrishnappa by notification dated 31.05.2022 one Dr.Nagaraju had been posted and was taken charge on 30.06.2022. Making it clear the respondent No.4 was not even working as a Deputy Secretary, Zilla Panchayat, Bangalore Rural District consequently, he cannot claim to have had any concurrent charge much less concurrent charge of Chief Executive Officer. Thus, he submits that the Tribunal grossly erred in allowing the application by setting aside the impugned order warranting interference at the hands of this Court.



6. Per contra, Prof. Ravivarma Kumar, learned Senior counsel for Sri.B.R.Raghavendra, learned counsel for the respondent No.4 justifying the order passed by the Tribunal submitted that;

(a) The respondent No.4 has always worked as a Chief Executive Officer and has never worked as a Deputy Secretary. He refers to the notification dated 15.12.2021, wherein the respondent No.4 had been transferred and posted until further orders as Chief Executive Officer of Zilla Panchayat, Bangalore Rural District, Bangalore to the place of one Sri. M.R.Ravikumar. He contends that in pursuant thereof, respondent No.4 has taken charge on 15.12.2021.

(b) Referring to the corrigendum dated 19.02.2022, learned Senior counsel submits that even in terms of said corrigendum, respondent No.4 continued to hold concurrent charge of the post of Chief Executive Officer, Zilla Panchayat, Bangalore Rural District, Bangalore and has been discharging his duties as Chief Executive Officer only.

(c) He emphasizes that the petitioner in fact has been posted to the place of respondent No.4 in



terms of the notification dated 11.02.2023 and that even the petitioner has also been placed in concurrent charge of the post of the Chief Executive Officer.

(d) That the order passed in Application No.831/2022 has not altered the position of the respondent No.4 and that he has continued in the said post. That Dr.Nagaraju who was posted as Deputy Secretary on retirement of Sri.C.M.Munikrishnappa had taken charge as a Deputy Secretary.

(e) That the respondent No.4 by virtue of Official Memorandum dated 06.12.2022 has been appointed as a Nodal Officer for the election purposes and even there his designation has been shown as Chief Executive Officer, Zilla Panchayat, Bangalore Rural District, Bangalore. Thus, he submits that the material placed on record would indicate that respondent No.4 has always continued to hold his office as Chief Executive Officer and not as a Deputy Secretary.

(f) Alternatively, learned Senior counsel submits that in view of the fact that the respondent No.4 is due for retirement in another about six months time, the impugned notification transferring the



petitioner to the post of the respondent No.4 be implemented after the retirement of the respondent No.4 in order to avoid any hardship. He relies upon the judgment of this Court dated 13.12.2022 in the case of **Dr.N.Jagadish Kumar vs. The State of Karnataka and others** in **W.P.No.23574/2022** and submits that the respondent No.4 is also similarly situated and he may be extended with the same benefit of postponing the implementation of the impugned notification.

Hence, seeks for dismissal of the petition.

7. Heard learned counsel for the parties and perused the records.

8. The Tribunal passed the impugned order allowing the application, *firstly*, for the reason that the respondent No.4 has residual service of less than six months and has not completed the minimum tenure in the present post held by him. *Secondly*, the respondent has been transferred without any posting. *Thirdly*, the petitioner herein being a KAS Junior Scale Officer is





ineligible candidate to be posted to the present place on concurrent charges. *Fourthly*, the respondent No.4 who has been appointed as Nodal Officer should not be disturbed till completion of election process. The Tribunal except the above has neither adverted to any of the contentions raised by the petitioner nor has referred to the documents produced thereof.

9. It is not in dispute that by notification dated 15.12.2021 the respondent No.4 was transferred and posted with immediate effect until further orders as Chief Executive Officer, Zilla Panchayat, Bangalore Rural District, Bangalore to the place of one Sri. M.R.Ravikumar and had indeed taken charge of the said post. However, by a corrigendum dated 19.02.2022 the previous notification dated 15.12.2021 came to be corrected to read as under;

*"Sri.K.Revanappa, Director, RDPR is transferred with immediate effect and posted until further orders as Deputy Secretary, Zilla Panchayat, Bangalore (Rural) District, Bangalore and is placed in concurrent charge of the post of Chief Executive*



*Officer, Zilla Panchayat, Bangalore (Rural) District, Bangalore vice Sri.M.R.Ravikumar, IAS, transferred."*

10. Thus, as rightly contended by the learned counsel for the petitioner, the respondent No.4 who was initially posted as "Chief Executive Officer" was subsequently posted only as "Deputy Secretary", Zilla Panchayat, Bangalore Rural District, Bangalore, in concurrent charge of Chief Executive Officer.

11. Even the said corrigendum dated 19.02.2022 was subject matter of challenge in an Application No.831/2022 at the instance of one Sri.C.M.Munikrishnappa. The Tribunal while disposing of the said application had directed continuation of said Sri.C.M.Munikrishnappa as Deputy Secretary and upon his retirement, by a notification dated 31.05.2022 one Dr.Nagaraju has been posted to the said post of Deputy Secretary. Thus, there is no material placed on record by



the respondent No.4 that he ever took charge of the said post even as Deputy Secretary.

12. Further contention of the respondent No.4 that by official Memorandum dated 06.12.2022 he has been appointed as a Nodal Officer and his designation is shown as Chief Executive Officer, Zilla Panchayat, Bangalore Rural District, Bangalore, also cannot be accepted in view of the revised Official Memorandum dated 14.02.2023 as per Annexure-R4/5, whereby the petitioner herein has been appointed as a Nodal Officer wherein his designation is shown as Chief Executive Officer, Zilla Panchayat, Bangalore Rural District, Bangalore.

13. A day subsequent thereof by notification dated 15.02.2023 as per Annexure-R4/9, respondent No.4 has been posted as Director, State Panchayat Resource Centre, Bangalore, which is a vacant post.



14. The above being the factual aspect of the matter the claim of the respondent No.4 that he continued to hold on to the post of Chief Executive Officer cannot be countenanced. That apart, the further contention of the respondent No.4 that by virtue of impugned notification dated 11.02.2023, the petitioner has been placed in the concurrent charge of the post of Chief Executive Officer and that he has not been given any posting also do not survive for consideration in view of notification dated 15.02.2023.

15. The respondent No.4 has not challenged the corrigendum dated 19.02.2022. He has also not challenged the revised Official Memorandum dated 14.02.2023. He has also not challenged the notification dated 15.02.2023. The Tribunal without adverting to the aforesaid notifications and the factual aspects of the matter has merely on the sole ground of purported



premature transfer without posting has come to the erroneous conclusion and has passed the impugned order.

16. The observation of the Tribunal with regard to the eligibility of the petitioner to the post of Chief Executive Officer, Zilla Panchayat, Bangalore Rural District, Bangalore is inconsequential in view of the fact the question that was required to be considered by the Tribunal was regarding transfer and posting of the respondent No.4.

17. The finding of the Tribunal regarding respondent No.4 being in residual service of six months and that the impugned order causing inconvenience and hardship if implemented is also without reference to the factual aspect of the matter. In that it is relevant to note that admittedly, the respondent No.4 has been within the Bangalore area holding one or the other post from 2013 till date as detailed hereunder;



Sl. No.	Place	Tenure
1	Deputy Secretary, Zilla Panchayat, Bangalore Rural, Bangalore	28.08.2013 to 27.02.2015
2	Deputy Secretary, Zilla Panchayat, Bangalore Urban, Bangalore	27.02.2015 to 01.06.2016
3	Director of ST Corporation, Bangalore	03.09.2016 to 08.08.2018
4	Managing Director, Backward Classes Department	08.08.2018 to 12.07.2019
5	Director, Area Development Programme, Bangalore	12.07.2019 to 15.12.2021
6	Deputy Secretary, Bangalore Rural Zilla Panchayat, Bangalore	15.12.2021 to 13.02.2023

The aforesaid details have not been disputed by the respondent No.4.

18. As rightly pointed out by learned Senior counsel for the petitioner that in view of the appointment of the respondent No.4 to the post of Director, State Panchayat Resource Centre, Bangalore vide notification dated 15.02.2023 it cannot be said that the respondent No.4 would be exposed to any hardship or prejudice.



Therefore, reliance placed by the Tribunal on Clause 8 and 9(a) of the Transfer Guidelines dated 07.06.2013 is misconceived and misplaced.

19. Alternate submissions of learned Senior counsel Prof.Ravivarma Kumar seeking postponement of the implementation of impugned notification until expiry of the term of the respondent No.4 also cannot be countenanced for the aforesaid reasons. The reliance placed by the learned Senior counsel to the order of this Court dated 13.12.2022 passed in W.P.No.23574/2022 in the case of **Dr.N.Jagadish Kumar vs. The State of Karnataka and others** is therefore of no avail.

20. For the aforesaid reasons and analysis, this court is of the considered view that the petitioner has made out grounds for interference with the order passed by the Tribunal.



21. Accordingly, the following;

**ORDER**

- (i) Writ Petition is allowed.
- (ii) Order dated 23.02.2023 passed by the Tribunal in Application No.745/2022 is hereby set aside.

**Sd/-  
JUDGE**

**Sd/-  
JUDGE**

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