

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 10TH DAY OF OCTOBER, 2025



PRESENT

THE HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE

AND

THE HON'BLE MR. JUSTICE C M JOSHI

WRIT APPEAL NO.1671 OF 2024 (S-RES)

BETWEEN:

1 . DR. JAGANNATH OLEKAR
S/O. LATE NINGONDAPPA
AGED ABOUT 58 YEARS
WORKING AS ASSOCIATE PROFESSOR
(FIELD OFFICER)
COST OF CULTIVATION SCHEME
DEPARTMENT OF AGRICULTURE ECONOMICS
UNIVERSITY OF AGRICULTURAL SCIENCES
G.K.V.K., BANGALORE - 560 065.

... APPELLANT

(BY SRI M.S. BHAGWAT, SENIOR ADVOCATE FOR
SRI SATISH K., ADVOCATE)

AND:

1 . UNIVERSITY OF AGRICULTURAL SCIENCES
REPRESENTED BY ITS
ADMINISTRATOR
G.K.V.K.,
BANGALORE - 560 065.

... RESPONDENT

(BY SRI M SREENIVASA, ADVOCATE)

THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF THE KARNATAKA HIGH COURT ACT, 1961, PRAYING TO SET ASIDE THE IMPUGNED JUDGMENT AND ORDER DATED 27.09.2024 PASSED BY THE LEARNED SINGLE JUDGE IN WRIT PETITION No.18766/2024 AND CONSEQUENTLY ALLOW THE WRIT PETITION No.18766/2024 AS PRAYED FOR AND ETC.

THIS WRIT APPEAL HAVING BEEN HEARD AND RESERVED FOR JUDGMENT, COMING ON FOR PRONOUNCEMENT THIS DAY, JUDGMENT WAS PRONOUNCED AS UNDER:

CORAM: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE
and
HON'BLE MR. JUSTICE C M JOSHI

C.A.V. JUDGMENT

(PER: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE)

1. The appellant has filed the present intra-court appeal, impugning an order dated 27.09.2024 passed by the learned Single Judge of this Court in W.P.No.18766/2024 (S-RES) captioned 'Dr. Jagannath Olekar v. University of Agricultural Sciences' [**'impugned order'**].

2. The appellant had filed the afore-mentioned writ petition impugning an order dated 08.07.2024 as well as an order

dated 09.07.2024 modifying the aforesaid order **[impugned transfer orders]**, whereby the appellant was directed to report at Vishweswaraya Canal Farm, Mandya **[V.C. Farm]**, for assuming the charge as a Professor in his own pay-scale.

3. The appellant challenges the impugned transfer orders on two grounds. First that the appellant was transferred from the respondent / University, Bangalore, to V.C. Farm on a post, which was not equivalent to the post at which he was serving. According to him, his transfer to a post that was not equivalent to the post, which he was holding is not permissible.

4. Second, that the appellant's transfer was ordered without consultation with the Central Government. The appellant also contends that he does not have any teaching experience and therefore, could not be considered as part of the teaching faculty or a 'Teacher' under Section 30(1) of The Universities of Agricultural Sciences Act, 2009 **[UAS Act]**.

5. The learned Single Judge did not accept the said contentions. The learned Single Judge accepted the respondent's contention that the appellant was appointed as an Assistant Professor and therefore was a part of the teaching faculty. Accordingly, the learned Single Judge rejected the

appellant's contention that he was not qualified to hold the post of Professor at V.C. Farm, Mandya.

6. Apart from the contentions advanced on behalf of the appellant before the learned Single Judge, the learned counsel for the appellant also pointed out that in terms of a Cabinet decision dated 13.01.2025, an order dated 28.01.2025 was passed and a new Agricultural and Horticultural Sciences University (Integrated University), has been established at V.C. Farm in Mandya District. Thus, the V.C. Farm is no longer a part of the respondent / University, but is now a separate University – Agricultural and Horticultural Sciences University, Mandya. He contended that, therefore, in any event, the appellant cannot be posted to another University.

PREFATORY FACTS:

7. The respondent / University issued a notification inviting applications in the prescribed format from candidates for several teaching posts in the respondent / University, Bangalore. The same included posts of Assistant Professor Cadre Posts (ICAR Schemes) in the subjects of i) Agronomy; ii) Soil Science & Agricultural (Agril.) Chemistry; iii) Genetics & Plant Breeding and iv) Agril. Economics.

8. Pursuant to the said notification, the appellant submitted his application for being appointed to the post of Assistant Professor of Agricultural Economics. The Selection Committee scrutinized the said applications and after interviewing the appellant, recommended his name for the appointment. In the year 2006, the Board of the respondent / University considered the recommendation and selected the appellant for appointment to the post in the cadre of Assistant Professor of Agricultural Economics. Thereafter, by an order dated 18.01.2006, the appellant was appointed to the post of Field Officer, Cost of Cultivation Scheme, Hebbal, Bangalore, in the cadre of Assistant Professor in the University. The appointment letter specifically stated that the appellant would be liable "to be transferred to a similar post in the University jurisdiction, in the interest of University work."

9. ICAR introduced a Career Advancement Scheme [CAS] for promotion of Teachers in the cadre of Assistant Professor / Associate Professor and Professor. In terms of the scheme, all Teachers were required to submit their Bio-data for promotion along with the work done report, including teaching and research. On 14.07.2021, the respondent University issued a notification calling for all eligible teaching faculty in the cadre of

Assistant Professor for promotion to the post of Associate Professor. The appellant applied for promotion under the CAS and submitted his Bio-data along with work done report, which included the work done by him in teaching, research and extension.

10. The Selection Committee constituted to evaluate the candidates for promotion, called the appellant for an interview on 07.01.2022. Concededly, the Selection Committee also allocated marks in respect of teaching, research and extension work done by the appellant. On the basis of the marks as allocated, the appellant was recommended for promotion to the post of an Associate Professor.

11. At a meeting of the Board of Management of the respondent / University held on 12.01.2022, it was decided to promote Teachers / Scientists from the post of Assistant Professor cadre (Pay band of Rs.15600-67000 and AGP of Rs.8000) to Associate Professor cadre (Pay band of Rs.37400-67000 and AGP Rs.9000) under CAS-2006. Accordingly, by an order dated 01.02.2022, the post held by the appellant was upgraded to that of an Associate Professor and the appellant

was promoted and posted on the said post, with effect from 26.01.2020.

12. The comprehensive scheme for studying the cost of cultivation of principal crops in India, was further extended. The said scheme was being implemented since the year 1970-71 by the Department of Agricultural Economics of the respondent / University with the grant-in-aid provided by the Union of India [Ministry of Agriculture & Farmers Welfare].

13. The respondent / University and the Directorate of Economics and Statistics, Department of Agriculture, Co-operation and Farmers Welfare, Government of India, had entered into a Memorandum of Understanding [MOU] for implementation of the said scheme. In terms of the said MOU, it was agreed that the scheme would be implemented under the aegis of Department of Agricultural Economics of the respondent / University.

14. It was *inter alia* agreed under the aforementioned MOU that an Associate Professor or an equivalent Officer of the Department of Agricultural Economics, would be appointed as a Field Officer. By an order dated 31.05.2023, the appellant was transferred to the post of Assistant Professor, Agricultural

Economics, V.C. Farm, Mandya on his own pay scale and one Dr. Maheen Sharief, Assistant Professor, was given an additional charge of the post held by the appellant.

15. The appellant challenged the said transfer order dated 31.05.2023 in a writ petition in W.P.No.11626/2023, *inter alia* on the ground that there was no post of an Associate Professor at V.C. Farm, Mandya. And, he had been posted at a lower post. This Court allowed the said petition in terms of an order dated 06.07.2023. The Court found that there was no sanctioned post of an Associate Professor of Agricultural Economics at College of Agriculture, V.C. Farm, Mandya and held that transfer to an unsanctioned post, is impermissible. The Court also noted that the appellant was functioning at the post of an Associate Professor and held that the transfer to a post below the rank of Associate Professor, was impermissible.

16. Thereafter, the respondent issued the impugned transfer order dated 08.07.2024 transferring the appellant to the post of Professor, Agricultural Economics, College of Agriculture, V.C. Farm, Mandya, on his own pay-scale and directed the appellant to hand over charge of the post of Field Officer to Dr. Maheen Sharief.

REASONS AND FINDINGS:

17. As noted at the outset, the learned counsel for the appellant assailed the impugned transfer orders on two grounds. First, he had submitted that the appellant could not be posted at a post, which was not equivalent to his current post. He also relied on the decision of the Supreme Court in ***Tejshree Ghag and Others v. Prakash Parashuram Patil and Others : (2007) 6 SCC 220***, in support of the said contention.

18. We find little merit in the aforesaid challenge. The appellant held the post in the Assistant Professor grade. As noted above, the appellant was promoted from the post of the Assistant Professor grade to the post of Associate Professor grade, with effect from 26.01.2020. In terms of the impugned transfer orders, he has been posted to the post of Agricultural Economics (Professor Grade) on his own pay scale. Undisputedly, the appellant has not been posted to a post or a rank, which is lower than his current rank. On the contrary, he has been posted to a post carrying a higher grade (Professor Grade), than his current post. Clearly, the appellant cannot

claim that he suffers any disadvantage on account of being transferred to such a post.

19. The decision in the case of ***Tejshree Ghag and Others v. Prakash Parashuram Patil and Others*** (supra), does not assist the appellant in any manner. In the said case, persons who were posted as Assistant Deputy Education Inspectors were transferred to the post of Assistant Project Officers / Assistant Teachers and those who had been working as Assistant Teachers / Project Officers, were transferred to the post of Assistant Deputy Education Inspectors. Such transfers had civil consequences on the employees, as it resulted in reduction of the quantum of pay. The Supreme Court faulted the said transfers, as it would amount to clubbing holders of dissimilar posts as belonging to one class. Additionally, the Court found that such transfers were in violation of recruitment rules and adversely affected the promotional avenues of Assistant Deputy Education Inspectors. Consequently, the transfer orders were struck down as infringing Articles 14 and 16 of the Constitution of India. The orders passed by the High Court were appealed to the Supreme Court but the Supreme Court dismissed the appeal as unmerited. The Supreme Court observed that the transfer order entailed loss of pay as well as

loss of seniority and postponement of future chances of promotion. The relevant observations, which are relied upon by the learned counsel for the appellant, are set out below:

"15. The orders of transfer were passed by Authority in purported exercise of its executive power. Executive power can be exercised only in terms of the extant rules. It is well-settled that where executive order results in civil consequences, principles of natural justice are required to be complied with prior thereto. It is not a case where an order of transfer was passed by way of change of place of employment within an organization simpliciter. An order of transfer ordinarily should be in terms of the existing rules. Transfer may even be incidental to the conditions of service, but thereby nobody can be deprived of his existing right. Existence of a power and exercise thereof are two different concepts. An Executive power in absence of any statutory rules cannot be exercised which would result in civil or penal consequences. Such exercise of power must, moreover, be bona fide. It cannot be done for unauthorized purpose. An Executive order passed for unauthorized purpose would amount to malice in law. An order of transfer cannot prejudicially affect the status of an employee. If orders of transfer substantially affect the status of an employee, the same would be violative of the conditions of service and, thus, illegal. Transfers must be made to an equivalent post. [See Ramadhar Pandey v. State of U.P. & Others [(1993) Supp. (3) SCC 35] Hussain Sasan Saheb Kaladgi v. State of Maharashtra [(1988) 4 SCC 168], and P.C. Wadhwa v. Union of India and Anr. [1964 (4) SCR 598]."

20. In the present case, the appellant's appointment letter expressly provides as under:

"He is liable to be transferred to a similar post in the University jurisdiction in the interest of university work.

His service conditions shall be governed as per the Act / Statutes / Regulations of the University and as amended from time to time. If he is already an employee of UAS, Bangalore, he is eligible for TA for joining to the new post as per the existing Travelling Allowance Rules."

21. It is undisputed that the terms and conditions of the service on which the appellant was appointed, entailed the possibility of a transfer in accordance with the rules of the University.

22. The respondent / University had also issued transfer guidelines, which came into effect from the year 2005. The said guidelines also provided that it would be mandatory for every Teacher / Service Personnel / Employee of the University to serve at least 5 years in campuses other than Bangalore. Additionally, it also provided that the transfer would be at the discretion of the University.

23. In the present case, the impugned transfer orders cannot be considered as violative of Article 14 or Article 16 of the Constitution of India. The impugned transfer orders do not affect the appellant's promotional prospects. The appellant is not transferred to a post, which is either lower in rank than the current post or less remunerative.

24. The appellant's contention that he is not a 'Teacher' as he was employed under the specific scheme [Comprehensive Scheme for Studying the Cost of Cultivation for Principal Crops in India], is unsustainable. The contention that he cannot be transferred from his post, is equally unmerited and was rightly rejected by the learned Single Judge.

25. The term "Teacher", is defined under Section 2 (25) of the UAS Act, as under:

"Teacher" means a person not below the rank of an Assistant Professor appointed or recognized by the University for the purpose of imparting instructions or conducting and guiding research and / or extension education programmes, and may include any other person who may be declared by the Statutes to be a teacher".

26. It is also relevant to refer to Section 30(1) of the Statutes of UAS, which is set out below:

"Teacher (including Research and Extension workers) shall be appointed by the Vice-Chancellor with the approval of the Board in any of the following grades: a) Professor, b) Associate Professor, c) Assistant Professor, d) Instructor."

27. Admittedly, the appellant was appointed to the grade of Associate Professor / Teacher, pursuant to the applications that were invited by a notification dated 13.12.2004. In this view, the appellant's contention that he is not a Teacher, is insubstantial. It is important to note that the appellant had

applied for promotion to the post of Associate Professor Grade under the CAS 2006. He had also submitted his Bio-data along with the application for claiming the said promotion. The work done report indicates that the appellant had also claimed credits for (i) teaching work including in relation to the courses offered, diploma courses offered, and guidance to PG students; (ii) as Chairman of the Advisory Committee and as Member of the Advisory Committee; and (iii) on account of serving as an External Examiner for UG, PG and Diploma examinations including paper setting, paper correction and conducting viva-voce, etc.

28. Considering the contents of the appellant's application for claiming promotion on the basis of the teaching work, the appellant's contention that he cannot be considered as a Teacher, is not *bona fide*.

29. The appellant's contention that his transfer is invalid for want of the mandatory consent of the Government, is also unmerited. There is no pre-condition requiring consultation with the Directorate of Economics and Statistics, Department of Agriculture, Co-operation and Farmers Welfare, Government of India, before transferring the appellant. Hence, the contention

that prior consultation with the Directorate of Economics is mandatory, is unsubstantiated.

30. The MOU entered into between the respondent / University and the Union of India clearly states that the "role" of the Government of India is limited to provide grant-in-aid and technical guidance for smooth functioning of the CAS scheme.

31. The appellant was appointed by the respondent / University as a Field Officer by an appointment order dated 18.01.2006 on certain terms and conditions of service which stipulated that, "His service conditions shall be governed as per the Act / Statutes / Regulations of the University and as amended from time to time." Thus, the said terms and conditions do not contemplate prior consultation with the Union of India for transfer of any of the Teachers.

32. Lastly, it was contended on behalf of the appellant that the Vishweshwaraya Canal Farm, Mandya, is no longer a part of the respondent / University, as it is now established as an independent Agricultural and Horticultural Sciences University. Therefore, the appellant cannot be posted in the said University.

33. We do not find any merit in the said contention as well. Admittedly, V.C. Farm, Mandya, was part of the respondent / University at the time when the impugned transfer orders were issued. Thus, the appellant stands transferred to VC Farm. The question whether he is required to be absorbed in the new University or is required to be repatriated to the respondent, is not a subject matter of the present appeal.

34. The appellant would be entitled to be treated in the same manner as other teachers who were posted at VC Farm. The appellant was required to join V.C. Farm, Mandya in compliance with the impugned transfer orders. It is also material that the impugned transfer orders have not been stayed and are fully operative. However, in terms of the order dated 19.11.2024, this Court had observed that it would be open for the appellant to proceed on leave. This Court is informed that the appellant continues to be on leave.

35. We find no merit in the present appeal and the same is accordingly, dismissed.

36. In view of the above, the interim order passed in the present appeal does not survive. Having stated the above, we also clarify that the appellant would be treated similarly as all

other teachers of the respondent / University posted at V.C.
Farm, Mandya.

**Sd/-
(VIBHU BAKHRU)
CHIEF JUSTICE**

**Sd/-
(C M JOSHI)
JUDGE**

KS