

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION Nos.567/2019, 568/2019,
585/2019 & 569/2019

Date of Decision: 13th February, 2020

CORAM: R. VIJAYKUMAR, MEMBER (A)
RAVINDER KAUR, MEMBER (J).

1. Mangala Govind Pai
Age 55 years, working as
Senior Auditor, PCDA (N),
Mumbai residing at:D-3/7,
Defence Accounts Dept.
Residential Complex, Gandhi
Nagar, L.B.S. Marg,
Kanjurmarg (W),
Mumbai – 400 078.

2. Mrs. Varsha Shrikant Joshi
Age 53 years, working as
Senior Auditor, PCDA (N),
Mumbai residing at : Jai
Janki Society, Mauli Mandlal
Road, Dhobi Ali,
Thane (W), Pin – 400 601.

*... Applicants
in OA No.567/2019*

Suresh Namdeo Mali
Age 32 years, working as Auditor,
PCDA (N), Mumbai, residing at :
404, 4th Floor, Siddheshwar Co-
op. Society, Lokmanya Nagar,
Pada No.3, Thane (W), Pin- 400 606.

*... Applicant
in OA No.568/2019*

Shri R.D. Waghela
Age 53 years, working as Clerk, TA
Section main Office Mumbai residing
at Room No.3, CGS Colony, Antop Hill,
Sector-3, Mumbai – 37.

*... Applicant
in OA No.585/2019*

Mrs. Jayshree Deelip Narvekar,
Age 54 years, working as Senior
Auditor, PCDA (N), Mumbai
Residing at :Bldg. No.9,
Flat No.3, Shree Shiv Shakti

CHS Ltd. No.1, Vaishet Pada,
Santoshi Mata Mandir Road,
Kurar Village, Malad (E),
Mumbai – 400 097.

... *Applicant*
in OA No.569/2019

(By Advocate Shri Vicky Nagrani)

Versus

1. The Union of India
Through the Secretary,
Ministry of Defence,
South Block,
New Delhi – 110 001.
2. The Controller General of
Defence Accounts,
Office of Controller General
of Defence Accounts,
Ulan Batar Marg, Palam,
Delhi Cantt. 110 010.
3. The Principal Controller of
Defence Accounts (Navy)
O/o. Principal Controller of
Defence Accounts (Navy)
No.1, Cooperage Road,
Colaba,
Mumbai – 400 001. ... ***Respondents***

*(By Advocate Shri N.K. Rajpurohit in OA Nos.567/2019,
568/2019 & 569/2019 and Shri P. Khosla in OA No.585/2019)*

ORDER (ORAL)

Per : Shri R. Vijaykumar, Member (A)

MA No.523/2019 filed by the applicants
in OA No.567/2019 for filing joint Petition
is allowed.

2. These applications have been filed on
08.08.2019, 08.08.2019, 19.08.2019,
08.08.2019 respectively under Section 19 of

the Administrative Tribunals Act, 1985 seeking the following reliefs:-

"8(a) This Hon'ble Tribunal may graciously be pleased to call for the records of the case from the respondents and after examining the same quash and set aside the impugned circular dated 15.05.2019, Alert Memo dated 27.06.2019 and order dated 25.07.2019 with all consequential benefits.

(b) This Hon'ble Tribunal may further be pleased to direct the respondents to retain the applicants as Senior Auditor at PCDA Mumbai with all consequential benefits.

(c) Cost of the applicant be provided for.

(d) Any other and further order as this Hon'ble Tribunal deems fit in the nature and circumstances of the case be passed."

3. The applicants were issued a notice by circular dated 15.05.2019 to inform that the Competent Authority had called for names of volunteers from amongst Senior Auditors, Auditors, clerks for posting to the station at Karwar for a period of two years and with other conditions. In response to this circular, an Alert Memo was issued to the applicants on 27.06.2019 (Annex A-2), deciding to transfer station seniors at Mumbai to Karwar which included the

applicants. Thereafter, the applicants filed representations on 28.06.2019 and 01.07.2019 (in OA No.567/2019), 15.07.2019 (in OA No.568/2019), 18.07.2019 (in OA No.585/2019) and 01.07.2019 (in OA No.569/2019) listing some issues including these specific to their individual cases. The respondents have then passed orders on 25.07.2019 (Annex A-3) reiterating the selection communicated in their Alert Memo and directing the transfer of the applicants to Karwar. This memo briefly states "it is intimated that the request of under mentioned officials would not be considered by the competent authority in the absence of volunteers for Karwar" and the said letter is signed by the Senior Accounts Officer (AN).

4. The applicants filed these OAs challenging the application of the transfer policy, preference for seniority mentioned in the Alert Memo and that their individual past postings should have been considered by the respondents. Consideration also needed to be given for ladies and the fact that their representations had not been dealt with in a proper manner considering their

individual difficulties.

5. When these matters were heard first on 13.08.2019, notice for interim relief was given to the respondents to file their short reply in respect of OA Nos.567/2019 and 569/2019 but no reply has been filed till date. In respect of OA Nos.568/2019 and 585/2019, interim relief was granted and respondents were asked to file their short reply including reply on the OA but no reply has been filed till date.

6. The fact remains that the respondents have not dealt with the individual grievances of the applicant while rejecting their representations and it appears that they have simply gone on the basis of their non-availability of volunteers. The other issues now raised by the applicants in this OA with regard to the legality of the orders and of the competence of the authority that issued them have also not been considered but these have now been raised in these OAs and not previously in the representations but also remain to be considered and kept in mind by the respondents for the purpose of passing final orders on the grievances of

applicants.

7. Learned counsels were heard. It has been informed by learned counsel for the respondents that suitable reply has been prepared and communicated to the department for filing but we note that nothing has been filed so far despite the passage of nearly eight months from filing of OAs. Learned counsel for the applicants was heard. He states that the applicants would be satisfied if the respondents are directed to consider their individual cases and the legal issues also raised in these OAs with regard to the competence of the authorities issuing the order and on the aspect of whether the transfer policy guidelines have been strictly followed while passing the orders based on the determination of volunteers, if available for the new station.

8. In these circumstances, the applicants may file an additional representation, if they so desire within seven days from the date of this order and the respondents are directed to consider the previous and current representations, if any, within four

weeks after receipt of their representations as per this timeline and pass a reasoned and speaking order which shall be communicated to the applicants within two weeks thereafter. The applicants shall be protected from any movement in consequence of those orders for one week beyond the date of receipt of such orders.

9. These Original Applications are disposed of with these directions. No order as to costs.

(*Ravinder Kaur*)
Member (J)

(*R.Vijaykumar*)
Member (A)

ma.

*Pls see
R*

