

**CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH**

**OA/021/509/2020**

HYDERABAD, this the 28<sup>th</sup> day of January, 2021



**Hon'ble Mr. Ashish Kalia, Judl. Member  
Hon'ble Mr. B.V. Sudhakar, Admn. Member**

1. A. Srinivasa Rao-III,  
S/o. A. Venkatarathnam,  
Aged about 49 years,  
Occ: Senior Accountant,  
O/o. General Manager (Finance), Gr. C,  
Postal Accounts, AP Circle,  
Stationed at Hyderabad.
2. S. Sujatha, W/o. K. Krishna,  
Aged about 54 years,  
Occ: Senior Accountant,  
O/o. General Manager (Finance),  
Postal Accounts, AP Circle,  
Stationed at Hyderabad.

...Applicants

(By Advocate : Mr. B. Pavan Kumar for Dr. A. Raghu Kumar)

Vs.

1. Union of India rep. by its  
Secretary, Department of Posts,  
Dak Bhavan, New Delhi – 110 001.
2. The Member (Personal),  
Postal Board, Department of Posts,  
Dak Bhavan, New Delhi – 110 001.
3. The Senior Deputy Director General (PAF),  
PA Wing, Department of Posts,  
Dak Bhavan, New Delhi – 110 001.
4. The Chief Postmaster General,  
Telangana Circle, Abids, Hyderabad – 1.
5. The Chief Postmaster General,  
AP Circle, Vijayawada -13.



6. The General Manager (Finance),  
Postal Accounts, AP Circle,  
Vijayawada – 13.
7. The Director of Accounts (Postal),  
Telangana Circle, Hyderabad – 1.
8. Didigam Somesh,  
Occ: Senior Accountant,  
O/o. Director of Accounts (Postal),  
Telangana Circle, Hyderabad – 1.
9. Thentu Ravindra,  
Occ: Senior Accountant,  
O/o. Director of Accounts (Postal),  
Telangana Circle, Hyderabad – 1.
10. Sandeep Kumar Yadav,  
Occ: Senior Accountant,  
O/o. Director of Accounts (Postal),  
Telangana Circle, Hyderabad – 1.
11. Ms. Yogitha Sagar,  
Occ: Senior Accountant,  
O/o. Director of Accounts (Postal),  
Telangana Circle, Hyderabad – 1.
12. Marella Srinivas,  
Occ: Senior Accountant,  
O/o. Director of Accounts (Postal),  
Telangana Circle, Hyderabad – 1.
13. Koppaka Uma Shankar,  
Occ: Senior Accountant,  
O/o. Director of Accounts (Postal),  
Telangana Circle, Hyderabad – 1.
14. Ch. Rushikesh,  
Occ: Senior Accountant,  
O/o. Director of Accounts (Postal),  
Telangana Circle, Hyderabad – 1.
15. Smt. A.L. Prasanna,  
Occ: Senior Accountant,  
O/o. Director of Accounts (Postal),  
Telangana Circle, Hyderabad – 1.
16. P. Naganjaneyulu,  
Occ: Senior Accountant,  
O/o. Director of Accounts (Postal),  
Telangana Circle, Hyderabad – 1.

17. M. Soma Sekhara Naidu,  
Occ: Senior Accountant,  
O/o. Director of Accounts (Postal),  
Telangana Circle, Hyderabad – 1.
  
18. Smt. G. Yamini Krishna Veni,  
Occ: Senior Accountant,  
O/o. Director of Accounts (Postal),  
Telangana Circle, Hyderabad – 1.
  
19. B. Ravi, Occ: Senior Accountant,  
O/o. Director of Accounts (Postal),  
Telangana Circle, Hyderabad – 1.
  
20. K. Nagaraju, Occ: Senior Accountant,  
O/o. Director of Accounts (Postal),  
Telangana Circle, Hyderabad – 1.

...Respondents

(By Advocate : Smt K. Rajitha, Sr. CGSC)

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**ORAL ORDER**  
**(Hon'ble Mr. B.V. Sudhakar, Admn. Member)**

**Through Video Conferencing:**



2. The OA is filed in regard to the orders of the respondents to the applicants to report at PAO (Postal Accounts Office), A.P. Circle, Vijayawada consequent to the formation of A.P. Postal Circle after the bifurcation of the composite State of A.P.
  
3. Brief facts are that the applicants have been promoted as Sr. Accountants on 01.04.2011 and in November 2017 respondents decided to form a separate Postal Accounts Office at Vijayawada. Thereupon, options were called for in Dec. 2017 and the applicants have opted for Hyderabad PAO, which caters to the needs of Telangana Postal Circle. Later, in Nov. 2019, respondents decided to depute 32 junior most Senior Accountants to work at PAO, Vijayawada. Following the said decision, the Chief Post Master General, A.P. Circle permanently transferred staff to PAO Vijayawada on 6.3.2020. While effecting the said transfer, Director Accounts Postal Hyderabad, has staggered the promotion of the private respondents as Senior Accountants on their request, in such a manner that the applicants though senior were allotted to PAO Vijayawada and their relief was ordered. Challenging the order of relief, OA 284/2020 was filed, wherein a direction was issued to dispose of the representations, which was complied by rejecting the representation. Aggrieved, the OA is filed.

4. The contentions of the applicants are that the local authorities have not acted in accordance with the multiple directions of the Postal Directorate. DOPT orders on conduct of DPC have not been followed. The private respondents have been favoured by delaying their promotions so that they could be retained at Hyderabad PAO. Visits by senior officers from Postal Directorate and reports submitted by them support the cause of the applicants.



5. Heard both the counsel and perused the pleadings on record.

6. The dispute is about allocating the applicants to PAO Vijayawada instead of Hyderabad PAO though they have requested for the latter, being fully eligible for the same. A similar issue fell for consideration before this Bench in OAs 469 & 510/2020, wherein the facts and circumstances are identical and the said OAs were allowed vide order dt. 23.11.2010. The relevant observations of the judgment are extracted hereunder:

*"XV. The solution to depute staff in cases when offices are bifurcated, till regular staff are appointed, is not new to the respondents organization. It was followed when PAOs were created at Ahmedabad, Kapurtala, Jammu, Nagpur, Raipur etc. The officials from the parent office were deputed to the newly created circle on deputation without any extra remuneration till the vacancies in the new office were filled up on a regular basis. By following the same procedure, the bifurcation would have been completed in a smooth manner even while creating PAO Vijayawada. It is true that when bifurcation of a Circle takes place, there will be number of difficulties and it is for the respondents to overcome them with a balanced approach. The balanced approach was to resolve such difficulties by taking all the stakeholders on board rather than issuing orders which are not in consonance with the statutory norms and create heartburn among a section of the employees. The Postal Directorate did try to follow this mode by constituting CPMGs committee and responding to the ground realities as and when they arose. This is evidenced from the fact that the original order of bifurcation issued by 6<sup>th</sup> respondent dated 22.8.2019 was kept in abeyance by the 1<sup>st</sup> respondent and through subsequent measures like deputing 32 junior officials from the Senior Accountant and Junior accountant cadre to Vijayawada PAO with no extra remuneration. Allotting 67 newly recruited candidates by SSC to Vijayawada PAO are some measures of the Postal Directorate to salvage the situation. Postal Directorate has given a specific directions to hold the DPC before the 31.12.2019 and admittedly the Postal Directorate has in response to the direction of the Tribunal in OA 284/2020 dated 17.6.2020 vide letter dt.10.08.2020 directed the 6<sup>th</sup> and 7<sup>th</sup> respondents, to review the bifurcation order as well as promotion of the private respondents in consultation*

with the committee formed by the CPMGs. The direction to the extent relevant is extracted hereunder:



*You both are appointing and competent authority in respect of LDC, JA/SA officials and respondent no 6 and 7 of the O.A, therefore you are hereby authorized for taking further necessary action for compliance of judgment dated 17.6.2020 of OA 284/2020 in consultation with CGSC and dispose off the representations by issuing appropriated reply/speaking order in accordance of the judgment dated 17/06/2020 and if required, review of the bifurcation order 6.3.2020 & promotion order dated 20.3.2020 as per extant rules and regulations and in consultation of the Committee constituted with the approval of member (p) for functional and administrative bifurcation under the Chairmanship of CPMG, A.P. An action taken report should also be furnished to all concerned including this office.*

*It is not explained in the reply statement as to why the order of the Postal Directorate was not followed by the respondents 4 to 7. The local authorities, as is seen from the case details have not been following the Postal Directorate orders or the rules and instead giving their own justifications which are mostly irrational. Therefore, the local authorities to claim that PAO Vijayawada work would get dislocated, if temporary allocation of staff is made will not hold since it was not averred by the local authorities, that the past experience of using the tool of deputation has created problems in discharge of work required to be discharged. True to speak the local authorities have no mandate nor authority to decide and act in a way violating the Postal Directorate orders or rules. The CPMGs Committee has been formed to ensure the smooth implementation of the bifurcation so that there are no allegations of bias in affecting the bifurcation in staff matters. The CPMGs committee does not have a statutory backing to override the instructions of Postal Directorate or that of the DOPT. Even the committee was only stating that the matter in regard to promotions has to be discussed with the Directorate, albeit the Postal Directorate was time and again directing to complete the exercise of Promotions within the time frame given.*

XVI. Interestingly, the respondents organizations has many wings like the Administrative wing, Accounts wing, Operative wing, Civil wing, etc at the circle level. When the administrative wing was bifurcated the Postal Directorate has gone even to the extent to allow the officials to work on attachment basis in the Telangana Circle, till the new staff are recruited in the new A.P Postal Circle, as under:

*Postal Directorate in its letter date 7.3.2018 (A-XX) while handling issues related to bifurcation of erstwhile A.P Postal Circle into Telangana and Andhra Pradesh Circle has directed as under:*

2 (a) Andhra Pradesh and Telangana Circle is hereby directed to implement instructions contained in this office order dated 13.2.2017 I letter and spirit which reads as under:

*"All such employees who have been allotted to a circle different from the option exercised by them are retained on attachment basis in the circle of their choice till vacancies become available on account of retirement on cadre restructuring and consequent creation of posts or till further orders, which ever is earlier till such time these employees continue to be in a circle of their choice on attachment basis they will draw salary from circle which they have formally allotted."*

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*Both the circles are directed to implement the aforesaid decision latest by 22.3.2018 under intimation to this office. Further, both the circle shall resolve the*

issues with mutual consultation and no further proposal connected to the above for relaxation or otherwise shall be referred to Directorate.

The Postal Directorate policy direction was to ensure that the bifurcation happens in a smooth manner without creating any turbulence in the process and at the same time ensuring that the work is not dislocated. When it came to accounts wing due to its large size, the methodology of deputation was adopted and in both the cases the goal was to ensure minimum displacement of staff and if required in the interest of service, for a period of one year. Hence when such a clear policy direction was available, the local authorities need to have abided by the said direction. Instead they created an issue of promoting the private respondents as Senior Accountants on 20.3.2020, against rules, after the final bifurcation of the composite PAO on 6.3.2020, which the applicants allege was to enable them to be retained in Hyderabad. True, if the private respondents were to be promoted as Senior Accountants on 1.1.2020 by following the DOPT order, they would have become junior to the applicants in the Senior Accountant cadre and would have been liable to be transferred to Vijayawada PAO. Therefore, there is merit in the contentions of the applicants that injustice has been done to them by forcing them to go over to Vijayawada PAO by delaying the promotions of the private respondents. More so, when there have been Postal Directorate directions, representations from the staff unions as well as staff that the promotions have to be effected before 01.01.2020 and yet, delaying the promotions of the private respondents as Senior Accountants, after receiving representations from them, does give sufficient leeway to the contentions of the applicants that such an action was taken in order to favour private respondents to retain them in Telangana.

XVII. To sum up, we are of the view that the representations of the private respondents were received based on the allocation order dt.22.08.2019, which was kept in abeyance. When the orders were kept in abeyance, then it is difficult to appreciate as to how a decision could be taken based on an order which is in abeyance. In the meeting under the chairmanship of the Member (P) held on 22.08.2020, it was advised to conduct review DPC based on the proportional allocation/ distribution of staff/ vacancies in pursuance of the recommendations of the CPMG committee. The said CPMGs Committee also recommended that the vacant posts have to be distributed depending on the number of Head Post Offices in the respective Circle. When the clear vacancies were available, respondents could have conducted the promotions and thereafter decided to transfer the staff of the respective cadre based on bifurcation guidelines. The very assumption that PAO-wise vacancies are to be known for promotions to be effected is wrong. Assuming for a moment, if the bifurcation were not to be effected for another 5 to 10 years, can the local authorities afford the luxury to sit over the issue by taking the stand that staff have not been bifurcated. They would not, since promotions and bifurcation have no correlation. Promotions have to be effected as per time schedule prescribed by the nodal Ministry i.e. DOPT. No other authority in the Postal Directorate or below have any discretion to modify DOPT orders on the subject, without the latter's consent. Moreover, there is no order/rule preventing the respondents from effecting promotions before the bifurcation took place. Any delay in granting promotion will mar career of the employees. Often we find employees demanding anti-dating of the promotions but never to postpone the promotions. Antedating promotions will give the benefit of seniority for further promotions to the next cadre and also in pension fixation. The local authorities promoting the private respondents belatedly against DOPT order cited brands the decision as irregular, biased and illegal.

XVIII. To conclude, we find that the local authorities i.e. respondents 4 to 7, have not acted as per DOPT memo dated 8.5.2017 by not promoting the private respondents as Senior Accountants as on 01.01.2020 though eligible in all respects, instead of 20.3.2020. They were under clear instructions from the Postal Directorate to effect promotions to different cadres before 01.01.2020, but was not done. The Postal Directorate in its letter dt. 10.08.2020 ordered to review the promotion of the private respondents as well as bifurcation in consultation with the CPMGs committee, which was also not followed. Reply statement does not give reasons as to why the direction of



the Postal Directorate was not followed. The local authorities have neither the competency nor the authority to act against the Postal Directorate orders. Local authorities receiving representations from the private respondents and postponing the promotions in order to favour one section of employees by circumventing rules is bad in law. Following the past precedent is a common practice in order to ensure that things happen smoothly. When other PAOs of the respondents organization were bifurcated in the past, the method of sending officials on deputation without extra remuneration was adopted and the same could have been done by the local authorities, particularly in the context of the Postal Directorate having not withdrawn the order dated 15.11.2019 of deputing 32 officials without extra remuneration to PAO Vijayawada. There was a recommendation of Sri Rajeev Kumar, DDG (F & PAA) to adopt the deputation method. The local authorities could have simply adopted it and avoided the hardship to the employees and dislocation of work. The local authorities claiming that effecting promotions with retrospective effect will create issues of seniority, is off the mark, since the promotions were to be effected on the first of January of the year as per rules. If this statutory rule were to be followed, the question of difficulties in seniority would not have arisen. This appears to be lame excuse given by the local authorities. It is also to be noted that 23 officials selected by the SSC have joined the new PAO at Vijayawada. Therefore, the position has improved and it could have been managed by ordering deputation as ordered by the Postal Directorate, in tune with the previous practice followed at the time of bifurcation of similar other PAOs in the past. Bifurcation issues within the same organization would be the same and not different as claimed by the local authorities. All the more when Corona was rampant, the local authorities need to be considerate in moving staff. Ground realities are to be taken into consideration and not in a way of uprooting staff by issuing a deemed transfer order. Rules are to be equally and fairly applied to the officers and the one administered by them. Power has to be exercised with great restraint and responsibility. Extraordinary situations require extraordinary solutions. The extraordinary solutions were given by Postal Directorate in as many ways as they could. Unfortunately, the local authorities i.e. respondents 4 to 7 have not followed the guidelines of the Postal Directorate or that of the DOPT in attending to issues relating to the staff. CPMGs of A.P. & Telangana, being senior officers from the HAG grade, could have easily anticipated the issues and guided the subordinate formations to come to an amicable solution within the ambit of the rules, particularly when the conduct of the 6<sup>th</sup> respondent has been found to be wanting by the Postal Directorate while handling the staff issues relating to bifurcation.

XIX. Thus, in view of the aforesaid circumstances, we find that the transfer of the applicants to Vijayawada is not tenable since it is in violation of the rules, arbitrary, illegal and displays colorable exercise of power. Applicants were discriminated by the action of the local authorities in a manner which favoured the private respondents and forced their transfer to PAO Vijayawada PAO. Therefore, the impugned orders dt. 11.08.2020 and 29.05.2020 in so far as the applicants in OA No. 469/2020 and impugned order dt. 21.08.2020 in respect of the applicants in OA No. 510/2020 are quashed and set aside. Applicants shall be allowed to continue at Hyderabad PAO. The respondents 1 to 3 may examine and reiterate its direction for deputation of staff to resolve the deficiency of staff at PAO Vijayawada, without extra remuneration for strict compliance. Regarding the promotion of the private respondents w.e.f. 1.1.2020, it is left open to the respondents 1 to 3 to give suitable directions to the local authorities to regulate the same as per DOPT Rule cited by having a review DPC, so that their future promotions are not adversely impacted.

XX. With the above directions, the OAs are allowed. Consequently, MA No. 370/2020 stands closed. No order as to costs. “

7. The case of the applicants is squarely covered by the above judgment. Hence, in the light of the above judgment, the orders issued by

the respondents vide Memos dated 21.08.2020, 6.3.2020, 29.5.2020 in so far as the applicants are concerned, are squashed and set aside. The applicants shall be allowed to continue at Hyderabad PAO. Action indicated at Para 7(XIX) in the verdict in OA 469/2020, as extracted supra, is directed to be taken by the respondents 1 to 3 in order to ensure that there is no dislocation of work.



With the above direction, the OA is disposed of. No order as to costs.

**(B.V.SUDHAKAR)**  
**ADMINISTRATIVE MEMBER**

**(ASHISH KALIA)**  
**JUDICIAL MEMBER**

/evr/