

Reserved
CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
JABALPUR

Original Application No.200/00401/2020

Jabalpur, this Tuesday, the 23rd day of February, 2021

HON'BLE SHRI RAMESH SINGH THAKUR, JUDICIAL MEMBER
HON'BLE MS. NAINI JAYASEELAN, ADMINISTRATIVE MEMBER



Subrata Mandal
 S/o Late P.C. Mandal
 DOB 08.02.1975 Working as
 Accounts Officer Accounts Office
 Ordnance Factory Itarsi
 R/o Flat No.109 G-Block Dutt township
 Tilahari, Jabalpur (MP) 482021 -Applicant

(By Advocate –**Shri Vijay Tripathi**)

V e r s u s

1. Union of India, through its Secretary Ministry of Defence (Finance) 139 South Block New Delhi 110 001
2. Controller General of Defence Accounts Ulan Batar Road Palam, Delhi Cantt. New Delhi 110010
3. Sr. Dy. Controller Accountant General Of Accounts (Admin.) O/o Controller General of Defence Accounts Ulan Batar Road, Palam Delhi Cantt. New Delhi 110010
4. Principal Controller & Accounts (Factories) (Admin-I/AN-I Section) 10A Shaheed Khudi Ram Bose Road Kolkata (WB) 700001
5. Controller of Finance & Accounts (Factories) Accounts office, Vehicle Factory, Jabalpur (MP) 482009 - Respondents

(By Advocate –**Shri D.S. Baghel**)
(Date of reserving the order :- 26.11.2020)

ORDER

By Ramesh Singh Thakur, JM:-

By way of this Original Application applicant is calling in question legality, validity and propriety of the order dated 22.10.2019 (Annexure A/1) whereby the applicant was posted as Accounts Officer, in the Accounts Office, Ordinance Factory Itarsi by the Respondent No.5. The applicant has also challenged the relieving order dated 19.11.2019 (Annexure A/4).

2. The applicant has prayed for the following reliefs:-

“8(i) Summon the entire record from the possession of the Respondents for its kind perusal.

(ii) Set aside the order dated 22.10.2019 Annexure A/1 and relieving order dated 19.11.2019 Annexure A/4.

(iii) Direct the Respondents to post the applicant in the Accounts Office situated at Jabalpur with consequential benefit.

(iv) Any other order/orders, which this Hon'ble Court deems fit and proper may also be passed.

(v) Award cost of the litigation in favour of the applicant.”



3. The facts of the case are that the applicant was initially appointed as Clerk on 04.11.1993 and posted in the Area Accounts, Office Silliguri, West Bengal. He was promoted as Auditor on 12.06.2000 and was posted in Area Accounts office Kolkata. He was further promoted as Sr. Auditor on 01.04.2004 and posted in Hasimara. He was transferred from the Office of LAO(B) Kolkata to Accounts Office of Ordnance Factory Katni by order dated 17.05.2010 and joined in Ordnance Factory Katni. The applicant was promoted as Accounts Officer vide order dated 18.10.2019 (Annexure A/2) and posted the applicant at Accounts Office, Ordnance Factory Itarsi vide order dated 22.10.2019 (Annexure A/1) whereas the applicant should have been posted at any accounts office situated at Jabalpur. Being aggrieved the applicant has preferred representation dated 23.10.2019 (Annexure A/5). The applicant vide communication dated 13.11.2019 (Annexure A/6) has been informed that his representation has been forwarded for appropriate action. The applicant





was relieved to join Ordinance Factory Itarsi and he joined in the Accounts office Ordinance Factory Itarsi on 03.12.2019. It has been mentioned in Para 5 of the order dated 18.10.2019 (Annexure A/2) that “in cases where office of posting on promotion to AO’s grade have not been indicated and only the station and organization have been mentioned, the AAOs after getting relieved may report and take charge in any of the offices situated at the station at that station and at the organization and located. After taking officer on strength and promoting him/her the Accounts Officer’s grade, the concerned organization may accommodate such officers in an office within the organization at the station shown in this promotional order...”. It has been clearly mentioned in the promotion order that the place of posting of applicant is at Jabalpur therefore he should have been posted in any one of the four accounts offices situated at Jabalpur. As per promotion order dated 18.10.2019 the respondent No.5 had option to post the applicant within Jabalpur station.

However the respondent No.5 had no option to post the applicant beyond Jabalpur Station. When the promotion order of the applicant was issued, two posts of Accounts officer were lying vacant in the Accounts office Vehicle Factory Jabalpur.



4. The respondents have filed their reply to the Original Application wherein it has been submitted that there are six branch Accounts Offices including Accounts Office, Katni and Accounts Office Itarsi and as per administrative requirement applicant had been posted in the Accounts Office OF Itarsi. Therefore CFA(Fys) Jabalpur being Administrative authority and Group Controller had decided to post the officer at Accounts office, Ordnance Factory Itarsi due to administrative exigency and deficiency of Accounts Officer at Accounts Office Ordnance Factory Itarsi. It has been submitted by the replying respondents that the case of applicant's posting to Accounts Office, Ordnance Factory Itarsi PCA (Fys) Kolkata/Respondent No.4 had been intimated/informed

about the administrative requirement of Accounts Officer at Accounts Office, Ordnance Factory Itarsi vide order dated 24.10.2019, as no accounts Officer had been posted against the authorized strength of 2 numbers of post.



Subsequently on projection of administrative requirement PCA (Fys) Kolkata vide Part II order dated 20.12.2019 posted/published the posting of applicant at Accounts Office, Itarsi. It has been mentioned that Jabalpur was never been a preferred place of posting of the applicant and the same can also be verified form the applicant's application dated 21.10.2019 wherein he has requested to post him in any offices at Siliguri area or Allahabad (which is against his posting to Jabalpur by HQrs office vide promotion order 18/10/2019). Thus, it is evident that Jabalpur was not a choice station of posting opted by the applicant. The competent authority at this juncture requested to the respondent No.4 vide letter dated 24.10.2019 to post the applicant at Accounts Office, Ordnance Factory, Itarsi on extreme administrative



requirement for smooth functioning of the office. In the letter addressed to PCA (Fys) Kolkata/Respondent No.4 requested that “At present, Accounts Office, Ordnance Factory, Itarsi facing constraints of SAO/AO and day to day work is hampering very badly in that office.” It has been submitted that after retirement of Shri Ram Dayal Pardhi, Accounts Officer on 30.09.2019 and Miss. Himashree Ghosh Sr. Accounts Officer on 31.10.2019 respectively, there were three accounts officers at AO, VFJ as one Accounts Officer Shri Netai Majumdar had been posted on promotion vide promotion order dated 18.10.2019 and other Accounts Officer who had been temporarily attached to the other office for specific administrative requirement had been on the strength of the Accounts Office, VFJ and reverted back. Further it has been mentioned that that department is facing acute shortage of Accounts officers/ Sr. Accounts Officer and Controllers are managing their posting on administrative requirement basis and there was no Accounts Officer’s at

Itarsi to discharge even day to day work. Hence the posting of the applicant was made at Itarsi. Hence, action of respondent No.5 is taken in the public interest.

5. The applicant has filed rejoinder to the reply filed by the respondents. It has been submitted by the applicant that at the time of finalization of DPC for promotion to AO grade, option was called for by Headquarter New Delhi Office and 03 choice station opted by the applicant was “Siliguri”, Khaprail and Sukhna. The applicant has been serving out of his home station for 18 years. When the applicant was not posted in any of the offices located at Siliguri station, he applied to CGDA New Delhi vide application dated 21.10.2019 for posting him to home station i.e. in Siliguri or in case his posting in Siliguri is not administratively feasible he may be posted to any of the offices located at Allahabad. The said application was turned down by CGDA New Delhi vide letter dated 02.12.2019 and the same was not communicated to the applicant. The applicant was transferred to AO OF Itarsi



vide letter dated 22.10.2019. Applicant further submitted that Transfer/posting order issued by CFA (Fys) Jabalpur duly mentioned in the subject as “Posting of newly promoted Asstt. Accounts Officer to Accounts Officer’s grade at Jabalpur Station under CFA (Fys) Jabalpur whereas the applicant has been posted in AO OF Itarsi which is not in Jabalpur station. The applicant represented to CFA (Fys) Jabalpur vide his applicant dated 23.10.2019 to allow him to join in any of the offices located at Jabalpur Station as per Para 5 of the CGDA New letter dated 18.10.2019 but CFA (Fys) Jabalpur turned down his request and directed to ACFA in charge AO OF Katni to relieve him with the direction to report to AO OF Itarsi vide letter dated 13.11.2019. It has been submitted by the applicant that Shri Snakha Subhra Majumdar was posted in Itarsi on promotion to AO grade vide Serial No.101 of the CGDA New Delhi letter dated 18.10.2019. The applicant submitted that respondent No.4 and 5 are not the competent/administrative authority for transfer/posting of



AAOs on their promotion to AO grade and CGDA New Delhi is only the competent /administrative authority for transfer/posting in respect of AAOs on their promotion to AO grade in accordance with Headquarter Office CGDA New Delhi revised Circular dated 04.10.2019. The PCA (Fys) Kolkata Part-II Office Order dated 20.12.2019 (Annexure A/3) is not a Transfer/posting order this Part-II Office Order is for notifying the date of joining/assumption of higher charge on promotion to AO Grade as PCA (Fys) Kolkata already issued transfer order of the applicant vide PCA (Fys) Kokata letter dated 21.10.2019 and posted him to any of the offices located at Jabalpur. The Headquarter CGDA New Delhi vide promotion cum transfer order dated 18.10.2019 (Annexure A/2) has promoted and posted 05 AAOs in the CFA (Fys) Jabalpur group. As per Para 11 of the order of CGDA New Delhi dated 18.10.2019 that after release of this promotion order the posted strength of SAOs/AOs in most of the organizations will be at par with the authorized



strength of that organization. Out of 04 AAOs on promotion to AO grade posted by CGDA in Jabalpur station under CFA (Fys) Jabalpur as per existing/available vacancy but out of 04 AAOs only one Shri Netai Majumdar (Srl. No. 147) has joined in the office of the CFA (Fys) Jabalpur, the applicant (Srl No.140) and Shri Maneswar Boro (Srl. No.139) has been transferred to AO OF Itarsi and AO OF Katni respectively by CFA (Fys) Jabalpur vide letter dated 22.10.2019 and Shri Uttam Kumar Das posted to AO OF Khamaria and his posting order to AO OF Khamaria has been cancelled and he has joined in the office of PCA (Fys) Kolkata on promotion to AO grade. It is evident that 03 vacancy of AO is lying vacant till date in Jabalpur station.

6. The respondents have filed the additional reply to the rejoinder filed by the applicant. It has been submitted by the respondents that other four officers posted/transferred on promotion from one station to another station apart from the applicant vide order dated 22.10.2019 (annexure



A/1), the applicant has not made the other four officers party as private respondents in the present O.A. while praying to set aside the order dated 22.10.2019. He cannot pray to set aside the entire order dated 22.10.2019.



Moreover the applicant has also prayed to set aside the relieving order dated 19.11.2019 which is contrary to the assumption of charge as Accounts Officer as without relieving applicant would had not assumed the higher responsibility of Accounts Officers at AO OF Itarsi. The applicant has also not mentioned in the O.A. about the representation dated 21.10.2019, wherein he has requested to post him in any offices at Siliguri area or Allahabad which is against his posting to Jabalpur by HQrs Office vide promotion order dated 18.10.2019. The applicant's request for posting him in any offices located at Siliguri or Allahabad which are not under the purview of respondent No.5 was forwarded to the respondent Nos.2 by PCA (Fys)/respondent No.4 for their decision but not acceded to vide letter dated 02.12.2019 and on administrative ground

the applicant has been posted at Itarsi. It has been submitted by the respondents that the HQrs Office CGDA New Delhi vide Promotion cum Transfer order dated 18.10.2019 has promoted and posted 05 AAOs in the CFA (Fys) Jabalpur. However, subsequently out of these 05 officers posting of two officers were modified by HQrs as one AAO Sh. Sanjha Subhra Majumdar who was initially posted at Itarsi under PCA (Fys) Organization, his place of posting has been modified by the HQrs Office vide order dated 16.07.2020 at Nagpur under PCDA (AF) Dehradun and place of posting in r/o Shri Uttam Kumar Das AAO has also been modified to Kolkata under this Organization vide order dated 08.11.2019. Further it is submitted that after retirement of Shri Ram Dayal Pardhi Accounts Officer on 30.09.2019 and Miss. Himashree Ghosh Sr. Accounts Officer on 31.10.2019 respectively there were three Accounts Officers at AO VJF as one Accounts Officer Shri Netai Majumdar had been posted on promotion vide CGDA promotion order dated 18.10.2019



and other Accounts Officer who had been temporarily attached to the other office for specific administrative requirement had been on the strength of the Accounts Office, VFJ and reverted back. The respondents submitted that department is facing acute shortage of Accounts Officers/Sr. Accounts Officer and Controllers are managing their posting on administrative requirement basis and there were no Accounts Officer's at Itarsi to discharge even day to day work.

7. Heard the learned counsel for the both the parties and perused the pleadings and documents on record.

8. From the pleadings it is clear that the applicant was transferred from the Office of LAO(B) Kolkata to Accounts Office of Ordnance Factory Katni on 17.05.2010. The applicant was further promoted as Accounts Officer on 18.10.2019 and posted the applicant at Accounts Office, Ordnance Factory Itarsi whereas the applicant should have been posted at any accounts office situated at Jabalpur. The contention of the applicant is that



the applicant was relieved to join Ordinance Factory Itarsi and has joined in the Accounts office Ordinance Factory Itarsi on 03.12.2019. It has been mentioned in Para 5 of the order dated 18.10.2019 (Annexure A/2) that “in cases where office of posting on promotion to AO’s grade have not been indicated and only the station and organization have been mentioned, the AAOs after getting relieved may report and take charge in any of the offices situated at the station at that station. The second contention of the applicant is that the place of posting of applicant is at Jabalpur therefore he should have been posted in any one of the four accounts offices situated at Jabalpur.

9. On the other side, respondents have submitted that there are six branch Accounts Offices including Accounts Office, Katni and Accounts Office Itarsi and as per administrative requirement applicant had been posted in the Accounts Office OF Itarsi. Therefore CFA(Fys) Jabalpur being Administrative authority and Group Controller had decided to post the officer at Accounts



office, Ordnance Factory Itarsi due to administrative exigency and deficiency of Accounts Officer at Accounts Office Ordnance Factory Itarsi. The respondents have submitted that the case of applicant's posting to Accounts Office, Ordnance Factory Itarsi PCA (Fys) Kolkata/Respondent No.4 had been intimated/informed about the administrative requirement of Accounts Officer at Accounts Office, Ordnance Factory Itarsi vide order dated 24.10.2019, as no accounts Officer had been posted against the authorized strength of 2 numbers of post. Subsequently on projection of administrative requirement PCA (Fys) Kolkata vide Part II order dated 20.12.2019 posted/published the posting of applicant at Accounts Office, Itarsi and Jabalpur was never been a preferred place of posting of the applicant which is clear as the applicant's application dated 21.10.2019. So the order of the applicant posted at Accounts Office, Ordnance Factory, Itarsi is on extreme administrative requirement for smooth functioning of the office. The respondent



department has also made clear in their reply that Accounts Office, Ordnance Factory, Itarsi facing constraints of SAO/AO and day to day work is hampering very badly in that office after retirement of Shri Ram Dayal Pardhi, Accounts Officer and Miss. Himashree Ghosh Sr. Accounts Officer respectively and one Accounts Officer Shri Netai Majumdar had been posted on promotion vide promotion and other Accounts Officer who had been temporarily attached to the other office for specific administrative requirement had been on the strength of the Accounts Office, VFJ and reverted back. In the rejoinder the applicant also indicated the additional facts that the applicant is serving out of his home station for 18 years. In the additional reply it has been submitted by the respondents that four officers posted/transferred on promotion from one station to another station apart from the applicant vide order dated 22.10.2019 (annexure A/1), the applicant has not made the other four officers party as private respondents in the present O.A.



10. We have considered the matter and law is very clear that in the concept of transfer/posting of an employee it is the prerogative of the employer only. Though the grievance of the applicant who have been taken care of but it should not be at the cost of exigencies of the administration and administrative necessity. The respondents have clearly spelt out the administrative exigencies and administrative necessity for posting of the applicant at Accounts Office O.F. Itarsi. From the reply it is also very clear that at present Accounts Office, Ordnance Factory, Itarsi facing constraints of SAO/AO and day to day work is hampering very badly in that office. Moreover in the reply it has been specifically submitted by the respondents that there are six branch Accounts Offices including Accounts Office, Katni and Accounts Office Itarsi and as per administrative requirement applicant had been posted in the Accounts Office OF Itarsi. Therefore CFA(Fys) Jabalpur being Administrative authority and Group Controller had decided to post the officer at



Accounts office, Ordnance Factory Itarsi due to administrative exigency and deficiency of Accounts Officer at Accounts Office Ordnance Factory Itarsi. In view of such position we are very clear that the wheel of the administration should run smoothly and it cannot be stopped at any stage. It is the only prerogative of the employer to post any employee at any place. In the matters of ***Union of India Vs. S.L. Abbas, (1993) 4 SCC 357*** the Hon'ble Supreme Court has specifically held that who should be transferred where, is a matter for the appropriate authority to decide. In the matters of ***State of M.P. Vs. S.S.Kourav, (1995) 3 SCC 270*** the Hon'ble Supreme Court has held that the wheels of administration should be allowed to run smoothly and the courts or tribunals are not expected to interdict the working of the administrative system by transferring the officers to proper places. It is for the administration to take appropriate decision and such decisions shall stand unless they are vitiated either by



malafides or by extraneous consideration without any factual background or foundation.

11. In view of the above, we do not find any illegality in the impugned order passed by the respondents.

12. Resultantly, this Original Application is dismissed. No costs.



(Naini Jayaseelan)
Administrative Member

(Ramesh Singh Thakur)
Judicial Member

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