

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION NO1197 OF 2003
ALLAHABAD THIS THE 21st DAY OF OCTOBER, 2003

HON'BLE MR. JUSTICE R.R.K. TRIVEDI, VICE-CHAIRMAN
HON'BLE MR. D. R. TEWARI, MEMBER-A

1. Assistant Audit Officers/
Section Officers (Audit),
Association, Office of the
Principal Accountant General
(Audit)-I, U.P., Allahabad
through its General Secretary,
Vinod Kumar, S/o Late Shri R.D. Dwivedi,
presently posted as Assistant Audit Officer,
office of the Principal Accountant General
(Audit)-I, U.P., Allahabad.
2. Prashant Kumar,
S/o Shri Deep Narain
aged about 32 years presently posted as
Assistant Audit Officer,
in the Office of the Accountant General
Audit II, U.P. Allahabad.Applicant
(By Advocate Shri P. Mathur)

Versus

1. Union of India,
through the Comptroller & Auditor,
General Of India,
10, Bahadurshah Zafar Marg,
New Delhi - 110002.
2. The Principal Accountant,
General (Audit)-I, U.P.,
Allahabad.
3. The Principal Accountant
General (A & E)-I, U.P.,
Allahabad.Respondents
(By Advocate Shri A. Sthalekar)

O R D E R

HON'BLE MR. JUSTICE R.R.K. TRIVEDI, VICE-CHAIRMAN

By this O.A. filed under section 19 of Administrative Tribunals Act 1985, applicants have challenged the order dated 19.07.2001 (Annexure A-2) by which it has been provided that for the purposes of Auditing the Accounts of State Government and other Local Bodies certain modelities or arrangement shall be followed. The impugned order contains 13 such directions which are to be followed in carrying out such audits. For the purpose of this O.A. the relevant clauses 4(1) & (ii) are being reproduced below:-

- (1) The work will involve certification of annual accounts as well as transaction audit. Estimated requirement of mandays may be in the range of 4 to 6 mandays for a unit. This has to be met by utilizing the audit staff of State Government and the balance from our offices.
- (ii) Zilla Parishad audit shall be completely audited by AG (A&E) and Intermediate Level Panchayats and Gram Panchayats could be distributed amongst audit parties of AG (A&E) and Panchayati Raj audit staff of the State Government. Urban Local Bodies will be audited by AG(Audit).

XXXXXXXXXXXXX"

2. The objection on behalf of applicants is that by way of re-structuring introduced in 1993 the cadres of Auditors and Accounts and Entitlement have been separated and after this separation direction could not be issued ^{authorizing} ~~existing~~ Accountant and Entitlement ^{being} ~~being~~ to carry out the audit work. It is submitted that the impugned order dated 19.07.2001 is in direct conflict with the provisions contained in Manual of Instructions for Restructuring of Cadres in IAAD (in short Manual).

3. Learned counsel for the applicant has placed before us

several provisions of the Manual which according to him have been violated. It is submitted that in chapter II, provisions have been made to allocate the work to audit offices and Accounts and Entitlement Offices and it is provided that the two wings shall be separate and will have no connection and for this purpose ~~links~~ ^{links} will be severed. It is also submitted that if the Audit work is allowed to be completed by Accounts and Entitlement wing it shall cause prejudice to the members of the Audit wing and ~~other~~ ^{their} chances of promotion may also be affected in future.

4. Shri A. Sthalekar, learned counsel for the respondents, on the other hand, has placed before us the order of this Tribunal dated 23.09.2002 passed in O.A. No.891/2002 in the case of R.K. Awasthi Vs U.O.I. & Ors and has submitted that the questions raised by applicants have already been considered and decided by this Tribunal and it is not open to applicants to raise the same question again. He has placed before us the order dated 31.07.2002 passed by Accountant General (Audit)-1, by which, representation of R.K. Awasthi applicant of O.A. No.891/02, was decided in pursuance of the order of this Tribunal and which was challenged before this Tribunal. It has been submitted that the impugned order dated 19.07.2001 was very much subject matter of discussion as the impugned orders of transfer/attachment were passed in pursuance of the order dated 19.07.01. It is also submitted that the matter and dispute which has already been decided long back, cannot be opened ^{on the grounds} that some aspects of the matter had not ^{been} taken in account. ^{order has become final}

5. We have carefully considered the submissions made by the counsel for the parties. However, we do not find ourselves



persuaded to interfere with the impugned order after more than two years as on the basis of the impugned order authorities have already proceeded. This Tribunal while passing order dated 23.09.2002 examined the scheme in detail and refused to interfere for the following reasons:-

"We do not find any infirmity in the scheme of regardless of individual aspirations of those in Audit wing who might seek the benefit from this expansion. The applicants have sought to a secondary importance to public interest in such matters and primary importance to benefit which may accrue to the staff of the audit wing. The public interest lies in introduction of audit of Panchayati Raj Institutions etc. at the earliest which purpose is adequately served by the scheme. The association of Accountant General (Audit) ensures the quality of audit."

6. The representation of R.K. Awasthi (applicant of O.A. No.891/02) was dismissed on 31.07.2002. In the order dated 31.07.2002 impugned order was discussed in detail and it was the base for passing the impugned orders. Thus, it is difficult to accept that the validity of the order was not examined by this Tribunal while deciding O.A. No.891/02. We have also examined the various provisions contained in the Manual. In paragraph 1.2.2 of Chapter I, it has been provided that separate detailed instructions will be issued giving relationship to be maintained between the AG(A&E) and the AG (Au) and between these two officers and State Government. For better ^{appreciation} ~~apprehension~~ the paragraph 1.2.2 and 1.2.3 are being reproduced below:-

"1.2.2 Separate detailed instructions will be issued giving the relationship to be maintained between the AG (A&E) and the AG (Au) and between these two officers and the State Government. All initial and subsidiary accounts received by the AG (A&E) together with the schedules, vouchers etc. shall at all times be available to the AG(Au) may set up concurrent or resident audit parties which shall carry out audit of the accounts as also authorisations and payments, if any,



made by the AG (A&E). In some States it may be necessary to have more than one AG for Accounts & Entitlement and/or for Audit in which case one of the AsG shall be designated cadre controlling authority according to the existing principles on which cadres are operated upon by AG-I & AG-II. Instructions will also be issued for each AG delineating his role vis-a-vis the State Legislatures and legislature committees like Public Accounts Committee, Public Undertakings Committee, Estimates Committee etc.

1.2.3 The existing group charges will be reorganised to contain only Accounts & Entitlement or Audit functions. In order to strengthen the group level supervision further the newly created offices may (in the present circumstances) propose compact group charges which can be held by Adhoc Deputy AsG promoted temporarily purely by selection from the AO's cadres after the cadres are bifurcated."

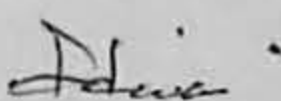
7. From perusal of the aforesaid, it is clear that right from the inception of the scheme it was in the mind of the authorities that for some places, the two cadres which are being separated under the scheme may be required to act jointly or severally and the duties in such circumstances may be overlapping. Thus, it is difficult to say that the impugned order has been passed abruptly and without there being any provision in the Manual.


8. In our considered opinion, the scheme provided by the impugned order is based on the provisions contained in paragraph 1.2.2. of chapter-I. We do not find any prohibition in entire Manual that respondents authorities cannot change the duty if they are so required in public interest. It cannot be disputed that after 73rd and 74th amendment of the Constitution greater role has been assigned to Panchayats and local bodies. In these change circumstances, authorities may have found it necessary to make some ^{suitable} changes in respect of duties of the two wings which have been accordingly done.

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9. For the reasons stated above, as the matter ^{has} ~~has~~ already been once considered and decided by this Tribunal, we do not find ^{it} ~~a~~ fit case to interfere.

10. The O.A. is accordingly dismissed with no order as to costs.


Member-A


Vice-Chairman

/Neelam/