

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM

O.A. No. 502
~~T.A. No.~~

1989

DATE OF DECISION 6.8.1990

C.P.Sugathan & 3 others Applicant (s)

M/s. V. N. Achutha Kurup Advocate for the Applicant (s)

Versus

UOI rep. by Secretary, Finance Respondent (s)
New Delhi and others

Mr. P. Santhosh Kumar, ACGSC Advocate for the Respondent (s)

CORAM:

The Hon'ble Mr. S. P. MUKERJI, VICE CHAIRMAN

The Hon'ble Mr. N. DHARMADAN, JUDICIAL MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgement? ^{Yes}
2. To be referred to the Reporter or not? ^{No}
3. Whether their Lordships wish to see the fair copy of the Judgement? ^{No}
4. To be circulated to all Benches of the Tribunal? ^{No}

JUDGEMENT

HON'BLE SHRI S.P. MUKERJI, VICE CHAIRMAN

In this application dated 24.7.1989, the four applicants have challenged their transfer to Kerala Cadre of AG's office to the lower post of IDC. The brief material facts are as follows. The first and the fourth applicants had been promoted as Accountants in the AG's office of Punjab on 27.5.1987 and 18.12.1985 respectively. The second applicant was directly recruited as Auditor/which in AG's office Maharashtra is on the same grade as Accountant, on 16.8.1988. The third applicant had been promoted as Accountant in the AG's office, Assam on 30.4.1987. They wanted to be transferred to their home state of Kerala. The AG's office

at Kerala was completely distinct from the AG's office in other states and there was no link in the various grades of Clerks or Accountants. In accordance with the order at Annexure-A, some accommodation had been given of Accountants/Auditors for transfer/~~from~~ one AG's office to another AG's office at the request of the officials, only on the condition that such a transfer will be deemed to be a technical resignation from the post of Accountant in one office and transfer to/^{the}home state/^{is}to be considered to be a fresh appointment in the lower grade ~~xx~~ post against a direct recruit vacancy. Such a provision was laid down because at that time there was no direct recruitment in the grade of Accountant and had the transfer been made on/^{the}request of Accountants to Accountant's cadre in the home state, the transferees would have encroached upon the promotion vacancies of the clerks in the home state. It is an admitted fact that the applicants with the full knowledge of the order at Annexure-A agreed to the transfer to Kerala in the lower grade of Clerks accepting/^{the condition of}technical resignation from their cadre of Auditor/Accountant in the AG's office in which they were working. The first applicant accordingly joined the AG's office at Kerala on 10.3.1988, the second applicant on 10.3.1986, the third applicant on 24.11.1987 and the fourth applicant on 10.3.1988. It appears that on

30.7.1988 the Recruitment Rules for the post of Accountants were amended providing for 331/3 per cent as the direct recruitment quota. Once this quota ~~is~~^{was} provided, as discussed above, the transfer policy on request also got modified treating such transfers of Accountants of one AG's office as Accountant in AG's office against the direct recruitment quota, office of the home state/without reversion to the lower grade of ~~clerks~~. The applicants' contention is that with the direct recruitment quota coming into force, they should also be accommodated ^{as Accountants} against the direct recruitment vacancies in the Accountant's cadre.


2. The applicants had submitted representations as at Annexures B, C, G and I praying that they should be allowed to withdraw their technical resignations accepted earlier so as to enable them to join as juniormost Accountants against the direct recruitment quota which will not affect the promotion prospects of the existing clerks in Kerala.


3. We have heard learned counsel for both the parties and gone through the documents carefully. We are afraid ~~xxxx~~ the request of the applicants either to go back to their parent cadre or to be accommodated in the direct recruitment vacancies ^{of Accountants} in Kerala cannot be accepted at this stage. The applicants had been working as Accountants or Auditors and they are supposed to be fully conversant with the instructions and consequence

of their technical resignation from the cadre of Accountants/Auditors before they were transferred on request to Kerala. Allowing their prayer of going back to parent offices would be encroaching upon the promotion prospects of the Accountants/Auditors in their parent offices and allowing them to be promoted as Accountant in Kerala will also be unfair to the clerks of Kerala who are now senior to the applicants.

4. In the facts and circumstances, we see no merit in the application and dismiss it.

5. There will be no order as to costs.


(N. Dharmadan) 6/8/90
Judicial Member


(S. P. Mukerji)
Vice Chairman

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