

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. NO.607 OF 2011

Thursday, this the 5th day of January, 2012

CORAM:

HON'BLE Mr.JUSTICE P.R.RAMAN, JUDICIAL MEMBER

Deobalan Nair
Accounts Officer
Local Audit Office (Army)
Naval Base(PO), Kataribagh
Kochi – 682 004

... Applicant

(By Advocate Mr.P.K.Madhusoodhanan)

versus

1. The Controller of Defence Accounts
618, Annasalai, Teynampet
Chennai – 600 018
2. The Controller of Defence Accounts
Ulan Batar Road, Palam
Delhi Cantonment – 110 010
3. The Assistant Controller of Defence Accounts
Zonal Office (Defence Pension Disbursing)
DAD Complex, Thirumala (PO)
Trivandrum – 695 006
4. The Local Audit Officer(Army)
Local Audit Office (Army)
Naval Base (PO), Kochi – 682 004
5. Union of India represented by its Secretary
to Government
Ministry of Defence (Finance) DAD Coord. South Block
New Delhi - 110 001 ... Respondents

(By Advocate Mr.Sunil Jacob Jose, SCGSC)

The application having been heard on 05.01.2012, the Tribunal on the same day delivered the following:-

ORDER

HON'BLE Mr.JUSTICE P.R.RAMAN, JUDICIAL MEMBER

The applicant is presently working as Accounts Officer, Cochin in Defence Accounts Service. He joined the service as Auditor at Area



Accounts Office, Shillong Meghalaya on 09.01.1980. He had to his credit 30 years of service. During the period he had been working at various hard stations like Andaman Islands, Port Blair etc. Last of his transfer to a hard station is to Port Blair by Annexure A-1, as per which he had been assured that he will be repatriated to his choice station after completion of three years. As a matter of fact, the applicant had completed more than three years at Port Blair at the relevant time when he was transferred to Cochin. But according to the applicant his choice station was Trivandrum. Therefore, going by Annexure A-1 and the relevant transfer policy, he is contending that he may be posted at his choice station. Therefore, he seeks for an appropriate direction to the respondents to transfer him to a suitable place at Trivandrum.

2. The respondents have no dispute that the applicant had completed the required number of years of service at hard station. But, according to them, a person will be transferred to his place of choice for which he has to give three choice places and wherever there is vacancy the applicant will be accommodated. In terms of Clause 369 (iv) of Office Manual Part I, it is stated that individuals due to be posted out of difficult stations will be accommodated at one of the three choice stations of their choice, to be specified by them, to the extent administratively feasible. Selection of staff for manning vacancies at different stations will be made from amongst those serving at popular or other stations with due regard to their stay at the present stations, their previous service etc. Therefore, according to them, there is no vacancy available at Trivandrum at the time when the applicant was transferred to Cochin. But in the case of the applicant he has completed more than 30 years of service and has

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crossed 57 years of age. Therefore, there is substance in the contention of the applicant that normally he may not be transferred as far as possible and have to be accommodated in the choice station as per Clause 373 of Office Manual, Part I.

3. In the rejoinder filed by the applicant he has brought on record that there are two vacancies of Accounts Officer available at Trivandrum, one at the Zonal Office (Defence Pension Disbursement) Trivandrum and the other at Local Audit Office (Army) Trivandrum on promotion of V.S.Pillai to Indian Defence Accounts Service and who has been transferred to Ezhimala Naval Academy. Mrs.Shobhana Nair, AO, Bangalore was transferred and posted to DPDO, Trivandrum on 24.10.2011 without considering the legitimate claim and right of the applicant. Likewise the vacancy of AO at NCC Directorate, Trivandrum was filled up by P.S.Shaji by order dated 15.04.2011 transferring him from Bangalore. The vacancy of AO at Local audit Office (Army), Trivandrum is now being officiated by Muraleedharan, AAO. This will clearly show that there are vacancies of AO at Trivndrum. Vide interim order dated 21.07.2011, this Tribunal directed the respondents to keep one vacancy of AO open. It is his prayer that he may be accommodated in the existing vacancies.

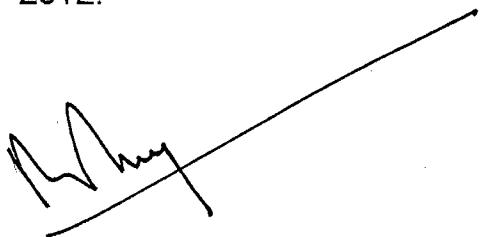
4. I heard the counsel on both sides. Even though in Annexure A-1 it is specifically mentioned that he will be repatriated to his choice station that has to be read with Sub Clause (iv) of Annexure R-1. At any rate , it cannot be said that unless there are vacancies at Trivandrum, the vacancy should be created to accommodate him at his place of choice. Besides

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that, if there are vacancies at Trivandrum and if there are no other candidates having better claim or preference than the applicant, then necessarily the applicant should be accommodated at Trivandrum. It is admitted in Para 13 of the reply that the applicant has been included in the list of volunteers for Trivandrum where the applicant tops the list. That means, there is no candidate having better claim than the applicant. Further the applicant is entitled to the benefits of Clause 373 of Office Manual Part I. If so, in the vacancy that might have arisen subsequent to the filing of the OA or subsequent to the transfer of the applicant to Cochin, the claim of the applicant should have been considered and he should have been transferred to Trivandrum. By an interim order this Tribunal had directed to keep one post of AO vacant. That being the position, there will be a direction to the 2nd respondent to issue appropriate orders posting the applicant to any of the vacancies of AO at Trivandrum as early as possible within one month from the date of receipt of copy of this order. Applicant is enabled to produce a copy of this order for information and compliance.

5. OA is disposed of as above. No costs.

Dated, the 5th January, 2012.



JUSTICE P.R.RAMAN
JUDICIAL MEMBER

vs