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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, 'GULESTAN' BUILDING NO.6
PREScot ROAD, BOMBAY - 1
CAMP: NAGPUR

TR.A. NO. 297/87

1. Divisional Accountants' Association Maharashtra State, Head Quarters Nagpur; through its Secretary Shri B R Gharote, resident of Yavatmal.
2. P.R. Andhare, Divisional Accountant Office of the Agriculture Construction Division No.II Nagpur, resident of Nagpur
3. N M Patki, Divisional Accountant Irrigation Project Investigation Division, Nagpur; resident of Nagpur

..applicants

V/s.

1. Union of India through Secretary Department of Finance, Central Secretariat, New Delhi
2. Comptroller and Auditor General of India, Indian Audit and Accounts Department, 10 Bahadur Shah Jafar Marg New Delhi
3. Accountant General-II (Maharashtra), Nagpur
4. Senior Deputy Accountant General (Works), Nagpur, c/o. Accountant General's Office, Nagpur

..Respondents

Coram: Hon. Shri Justice M S Deshpande, V.C.
Hon. Shri M Y Priolkar, Member (A)

APPEARANCE:

Mr. Prabhakar C Marpakkwar
counsel
for the applicants

Mr. Ramesh Darda
counsel
for the respondents

ORAL JUDGMENT:
(Per: M S Deshpande, Vice Chairman)

DATED: 21.7.93

Heard the counsel.

None of the original six prayers which were made by the present application survive in view of the statement made by Shri Darda because those reliefs have already been granted to the applicants. The only prayer which requires consideration is prayer (iv)a which requires the respondents

to attach the cadre of Divisional Accountant to Audit wing which is presently attached to accounts and entitlement wing, declaring that the attachment to the latter wing is not based on the functions being carried out by the Divisional Accountants.

The apprehension of the applicants is that by the virtue of letter dated 16.4.82, Annexure C, the Divisional Accountants would be placed under the administrative control of the State Governments because it is mentioned in the letter that the problem had been engaging the attention of the Accountant General and after detailed examination and deliberations they are convinced that the cadre of Divisional Accountants can best fulfil its functions under the State Governments.

The contention of the applicants is that the Divisional Accountants belong to the Audit wing and the cadre could not have been split into Accounts wing and Audit wing with a view to treating the Accounts wing on a different basis altogether and ultimately aborting that cadre for being placed under the State Government.

Shri Darda, learned counsel for the respondents pointed out to us that the matter is no longer a subject for interpretation in view of the decision of two Benches of this Tribunal. The Patna Bench has considered all the Administrative instructions as well as legal position and held in ALL INDIA FEDERATION OF DIVISIONAL ACCOUNTANTS ASSOCIATION V. UNION OF INDIA 1988, Vol.I, All India Administrative Law Times, 394 negativating the claim of the petitioners. The Divisional Accountant cadre is a part of combined cadre of Indian Audit and Accounts Department and for this reason the Divisional Accountants were entitled to be asked to give option under paragraph 12 of the impugned order, Annexure 1 and held that contention had no legs to stand upon. It is further held that the Divisional Accountants clearly and undoubtedly constitute a cadre quite distinct and apart from those of the combined IA&AD cadre which only was within the purview of the impugned restructuring. The duties and functions of the Divisional Accountants have neither been changed nor affected adversely by the impugned reorganisation.

Shri Marpakwar very fairly conceded that in the present case the option of the Divisional Accountants was asked for but there was a rider that they should get themselves reverted to the post of Auditors. That however should not make any difference in the present case.

Reference was also sought to be made to the provisions of the Audit Manual. But as observed in para 10 of the report the manual is an administrative order and there is no question of the order being struck down and the order does not affect the provisions of Articles 14 and 16 of the Constitution.

The Allahabad High Court in Writ Petition No. 803/84, U.P. DIVISIONAL ACCOUNTANT ASSOCIATION V. UNION OF INDIA decided on 22.2.1984 also took an identical view. May be because the provisions of the Maharashtra Audit Manual have made some provisions which are not identical with the provisions of the other State manuals, the position of the Divisional Accountants would not change and their status would be as has been indicated in the two judgments referred to above.

Since the matter is covered by these two decisions we reject this application. There would be no order as to costs.


(M Y Priolkar)
Member(A)


(M.S. Deshpande)
Vice Chairman