

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY

OA.NOs. 738/94, 761, 762, 763, 764, 765,
766, 767, 768, 769, 770, 771, 772, 779/94.

Shri K.M.Ranade & Ors.

... Applicants

V/S.

Accountant General (A&E) II
Nagpur and another.

... Respondents

CORAM: Hon'ble Vice Chairman Shri Justice M.S.Deshpande
Hon'ble Member (A) Shri V.Ramakrishnan

Appearance

Shri M.A.Mahalle
Advocate
for the Applicants

Shri A.I.Bhatkar
for Shri M.I.Sethna
Advocate
for the Respondents

ORAL JUDGEMENT

Dated: 25.7.1994

(PER: M.S.Deshpande, Vice Chairman)

By this bunch of original applications the applicants who were working as Divisional Accountant on deputation challenge the order dated 19.5.1994 by which the term of deputation was terminated and they have been repatriated to the parent department and were informed that the posting orders of their substitutes were being issued, and for a direction to the respondents to permit the applicants to appear for the Divisional Accountant Grade Examination and to absorb the applicants permanently in lieu of deputationists who may hereafter be posted.

2. The applicants were appointed as Junior Clerks in the Irrigation Department of Govt. of Maharashtra from the year 1970 and came to be promoted as Senior Clerks in 1981. On 30.11.1989 they were posted as Divisional Accountants under the

Accountant General and were posted in the office of the Executive Engineer, Construction Division, Alore, Tal. Chiplun, Dist. Ratnagiri. The deputation was for a period of one year initially and was to be extended on year to year basis until qualified Divisional Accountants were available. The applicants' deputation was extended for the 4th year on 15.3.1993 and this was over on 15.3.1994. On 18.3.1994 the period of deputation was extended upto 30.6.1994 and the impugned order dated 19.5.1994 was passed for bringing to an end the period of deputation.

3. The first contention of Shri Mahalle, learned counsel for the applicant was that under Rule 5 of the Indian Audit and Accounts Department (Divisional Accountant) Recruitment Rules 1988, the Comptroller and Auditor General of India has the power to relax the rules and the deputationists could, therefore, have been considered for absorption. It is apparent from the rules that the method of recruitment was to be only by direct recruitment and the direct recruits were to be selected on the basis of an examination conducted by the authority specified by Comptroller and Auditor General of India followed by probation and during probation they had to qualify at the prescribed departmental examination. It is only under Note 2 that short term vacancies could be filled from the Category I and II that is State Public Works Clerks holding certain qualifications. The present applicants belonged to the Second Category, State Public Works Clerks answering certain conditions. It is, therefore, clear that those who were taken on deputation did not have a right to be absorbed as the recruitment was limited only to direct recruitment. Under Note 3 the period of deputation shall ordinarily not exceed 3 years. Though the period of deputation of the applicants exceeded this limit of three years, that was in conformity with the rules. It is, therefore, clear that the applicants had no right to be continued as Deputationists.

4. The second submission of Shri Mahalle was that the applicants after a period of two years have lost their lien to the post in the parent cadre. No material has been produced in support of this contention and it is apparent that till the applicants were permanently absorbed in the Department to which they were deputed, they would not lose their lien. We, therefore, see no merit in the contention that the applicants should be continued in the present posts as they have lost the lien.

5. The learned counsel for the respondents produced before us the posting orders dated 14.6.1994 by which direct recruits were being appointed to the posts which the applicants are now holding and we therefore see no justification in the plea that the applicants are entitled to be continued in the present posts.

6. Shri Mahalle for the applicants also urged that there were 12 other employees who were working as Deputationists and they are not being repatriated. Shri Bhatkar for the respondents states that they belong to a different category known as Emergency Divisional Accountant and the applicants' position cannot be compared with them.

7. It is also urged that some of the Deputationists were granted interim orders by the Aurangabad Bench of the Bombay High Court and that the Department in compliance of the interim order has continued them. In any event, only because some interim order was passed by the High Court, it would not clothe the applicants with a right to continue in the present post if they do not have such a right. We are, therefore, satisfied that the applicants' repatriation was quite in order. We see no merit in the applications, they are dismissed.

(V. RAMAKRISHNAN)

MEMBER (A)

(M.S. DESHPANDE)

VICE CHAIRMAN