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CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Date of Order : This the 17th Day of June, 1998.

Shri G.L.Sanglyine, Administrative Member.

Original Application No.180 of 1997.

Shri Ch. Ibopishak Singh . . . Applicant

-Versus -

Union of India & Ors. . . . Respondents.

Original Application No. 181 of 1997.

Shri R.K. Sanajaoba Singh . . . Applicant.

- Versus -

Union of India & Ors . . . Respondents.

Original Application No. 3 of 1998.

Shri Shasi Bhusan Sharma . . . Applicant

- Versus -

Union of India & Ors. . . . Respondents.

By Advocate Dr. N.K.Singh for all the applicants.

By Addl.C.G.S.C Mr G.Sarma for all the respondents.

O R D E R

G.L.SANGLYINE, ADMINISTRATIVE MEMBER

All these three Original Applications have common grievance. Therefore, they are disposed of by this common order for convenience.

2. The applicants were all employees of State Government who were appointed as Emergency Junior Grade Divisional Accountant under the Administrative control of the Accountant General (A&E), Meghalaya etc.Shillong. The applicant in O.A.No.180/97 was transferred from Imphal to Khowal Head Works, I & F.C.Department, Chakmaghat. The applicant in O.A.No.181/97 was transferred from Imphal to Gas Thermal (Elect) Rokia, Tripura. The applicant in O.A.No.3 of 1998 was transferred from Ukhrul to Gumti Civil (Power) Jatanbari.

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They have submitted the Original Applications against the transfer orders conveyed vide order E.O.No. DA CELL/94 dated 15.5.1997. Their ground is that the Accountant General (A&E), Meghalaya etc.,Shillong cannot legally transfer them outside the State of Manipur as in compliance of circular No.DA Cell/ 2-1/96-97/178 dated 24.12.1996 they had exercised their options to remain within the territory of the State of Manipur. The respondents have contested the applications and submitted written statements. Their contention is that the option is ineffective as the proposed separation of the Joint Cadre has not yet come into force. Therefore, the contention of the applicants as stated above is not sustainable in law.

3. For the sake of convenience the Circular No.DA Cell/ 2-1/96-97/178 dated 24.12.1996 is reproduced below :-

> "Separation of the Joint cadre of Divisional Accountant/D.A.O's among the State Accountant General(A&E) Manipur, Tripura and Meghalaya etc. (for A.P.) has been under consideration of this Office in consultation with the respective State A.G. To enable this office to assess the availability of qualified/unqualified D.A., D.A.O's (Gr-1&11) for each of the States and the decide further course of action in the matter all Divisional Accountants (both qualified and unqualified) and Divisional Accounts Officer, Gr-1&11 are requested to send their Option (enclosed) so as to reach the Office on or before 15.2.97.
>
> Final decision on the exercised options will however, be taken considering the following conditions :-
>
> 1. Transfer of the Officers will be considered according to their Options and seniority subject to the availability of vacancies in the State cadre.
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> 2. Option once exercised is final and cannot be revoked.
>
> 3. The entire process of separation of cadre will be conducted in a phased manner."

Pursuant to this Circular the applicants had exercised option in the following form :-

"Form of Option

I, Shri _____ son of _____ now working as D.A.(qualified, unqualified) DAO-1/DAO-11 in the Office of the Executive Engineer _____ Division in the State of _____ (name of the Division and State in which it is Located should be specified) do hereby opt for serving under the Administrative Control of A.G(A&E) _____ in the cadre of DA/DAO-1/DAO-11 in the State of _____.

I also undertake that the terms and conditions as imposed from time to time by the Accountant General(A&E) concerned, _____ under whose Administrative Control my service is placed, will be applicable to me.

The Option exercised herein is final and will not be modified at any subsequent date."

4. Heard learned counsel of both sides. Dr N.K.Singh, learned counsel for the applicants, submitted that the Circular may be interpreted and, if that is done, the contention of the respondents would be found unsustainable in law. Consequently, the impugned orders of transfer are liable to be set aside and quashed. Interpretation is called for when ambiguity exists. On perusal of the circular No.DA Cell/2-1/96-97/178 dated 24.12.1996 reproduced above I find that it has no ambiguity. The circular projects a future event and the option called for and exercised is for the purpose of that event only. It is the submission of both sides that the proposed "separation of the Joint Cadre of Divisional Accountant/D.A.O's" under the Accountants General of various States of North Eastern Region has not yet materialised. Thus between the period from 24.12.1996 to the date of coming into effect of the proposed separation there is no bar for the respondents to exercise their power to transfer the employees concerned if administratively necessary. Therefore, I do not find any

merit in the contention of the applicants that because they had exercised the option the respondents are at present debarred from transferring them out from Manipur. The respondents however are bound to honour the terms stipulated in the circular and cannot deny the applicants the benefit of the option once the separation of the joint cadre comes into operation. Simply because the applicants have in the meantime been transferred outside the State of Manipur.

5. In the light of the above, the applications are dismissed with a direction to the respondents that whenever the proposed separation of Joint Cadre is implemented the applicants shall be treated as if they were not transferred out of the State of Manipur and shall transfer them to the Manipur Cadre.

No order as to costs.

Sd/-MEMBER(A)