

Central Administrative Tribunal
Jabalpur Bench

OA No.332/05

Jabalpur, this the 14th day of December, 2005

C O R A M

Hon'ble Mr.M.P.Singh, Vice Chairman

Hon'ble Mr.Madan Mohan, Judicial Member

SAS (Audit) Welfare Association
Through its President
D.S.Kushwaha
S/o Late Shri R.S.Kushwaha
Section Officer
Office of the Principal Accountant General
(Audit)-I & II
Madhya Pradesh, Gwalior.
R/o Shivaji Nagar
Amkho Kampoo
Gwalior (MP).

Applicant.

(By Applicant in person)

Versus

1. Union of India through
its Secretary
Ministry of Personnel, Public Grievances
And Pension
(Department of Personnel & Training)
New Delhi.
2. The Comptroller and
Auditor General of India
10, Bahadur Shah Zafar Marg
New Delhi.
3. The Deputy Comptroller and Auditor
General of India
New Delhi.
4. The Principal Accounts General
(Audit) Madhya Pradesh
Audit Bhawan, Jhansi Road
Gwalior.

Respondents.

(By advocate Shri M.Rao)



ORDER

By Madan Mohan, Judicial Member

By filing this OA, the applicant has claimed the following reliefs:

- (i) Quash the impugned order (Annexure A1).
- (ii) Direct the respondents to treat the employees of M.P. at par with the employees of U.P. and grant them all the exemptions and benefits.

2. The brief facts of the case are that the applicant is President of SAS Audit Association working in the office of Principal Accountant General (Audit) I & II, Gwalior. On formation of the new State of Chhattisgarh, the office of respondent No.3 was also to be bifurcated. Respondent No.1 framed a policy and the same was forwarded to all the Accountant Generals of the three erstwhile States of M.P., U.P. and Bihar for allocation of employees to the newly formed Accountant General Offices of Chhattisgarh, U.P. and Jharkhand. On 1.1.2000, a separate office of Accountant General (Audit), Chhattisgarh was formed. On 22.7.2002, respondent No.1 issued a common order whereby the offices of Principal Accountant General, Accountant Generals in the States of M.P., U.P. and Bihar were re-designated. Accordingly, persons from Allahabad and Gwalior were transferred to Uttaranchal and Raipur respectively. Some of the persons of Allahabad office challenged the said transfer before the Allahabad bench of the Tribunal and the petition was dismissed. Then the matter was taken before the Allahabad High Court. Respondents then conceded before the court that the relaxation was granted only to female employees, sports persons and persons belonging to handicapped category. The Hon'ble High Court allowed the writ petition. A similar procedure of transfer was followed by the respondents in the State of M.P. and the said transfer policy was challenged by the employees through their association in OA No.435/04, by women employees in OA no.433/05 and by persons belonging to sports quota in OA No.434/04 before this Bench of the



Tribunal. These three OA were disposed of by a common order directing the respondents to re-consider and decide the representations of the employees belonging to sports quota and female employees in the light of the transfer policy formulated for Audit/Accounts staff of U.P. and take appropriate decision. However, the respondents rejected the representations on the ground that the case of Allahabad is not similar to that of M.P. The Union also made a prayer to maintain parity among the employees of the two States but in vain. Hence this OA is filed.

3. Heard the applicant in person and the learned counsel for the respondents. The applicant argued that the guiding principles for transfer were made by respondent No.2 only. Accordingly respondent No.4 cannot take a different view for the staff working in M.P. and U.P. Such an attitude of respondents proves to be the one coloured with bias and malafide. Hence the impugned order needs to be struck down. He further argued that the Hon'ble High court in aforesaid OAs held that the employees, persons of sports quota and persons about 57 years are exempted in U.P. Accordingly the respondents shall reconsider their transfer orders in the light of the transfer policy formulated for the Audit/Accounts staff of U.P. The action of the respondents in rejecting their claim without application of mind is arbitrary and discriminatory.

4. In reply, learned counsel for the respondents argued that the applicant association had earlier filed OA No.435/2004 for quashing transfer orders of the employees transferred to Chhattisgarh, after reorganization of M.P.State. That petition was dismissed by a common judgment dated 4.11.2004. The applicant has again raised more or less the same issues which have already been decided by this Tribunal. On formation of Chhattisgarh, the transfer policy for transfer of employees of the composite offices of Accountant General (Audit)-I and Accountant General (Audit) II, M.P. was formulated for manning the staff for Chhattisgarh office. It was framed keeping in view the administrative expediency to properly run office of A.G.



Chhattisgarh in public interest, existing staff position, and genuine hardships of women/disabled ailing staff. The primary need at present is to make the newly created office of A.G.Chhattisgarh functional at the earliest in larger public interest with the existing available manpower. Accordingly, staff has been distributed to A.G. M.P. and Chhattisgarh in proportion to existing functional requirements in the offices of both the States. The transfer policy formulated for A.G.Uttaranchal does not contemplate that the female staff and the persons belonging to sports quota should be exempted from transfer to A.G.Chhattisgarh. The Principal employer of the employees working in A.G. M.P. and A.G., U.P. is not respondent No.2. In case of employees working in the A.G., M.P., Gwalior, 4th respondent is quite competent to take any decision in regard to the services of cadres working under him.

5. After hearing the applicant and the learned counsel for the respondents, we find that this Tribunal has decided OA Nos.433, 434 and 435 of 2004 vide a common order dated 4th Nov. 2004 in which it is mentioned that "when the Central Govt. as a model employer takes a policy decision in regard to certain employees working in one State it is naturally expected that the same policy decision will be made applicable to employees of the same cadre working in another State." It is further observed in the aforesaid order of the Tribunal that "however, it is expected that the respondents shall reconsider these transfer orders in the light of the transfer policy formulated for the audit/accounts staff of UP and take appropriate decision in the interest of the administration. We have perused Annexure A-2 letter dated 1.7.2004 issued by C&A.G. of India regarding the model guidelines for allocation of staff of separation of cadres in the offices of re-organized States. In its paras 6 to 10 are mentioned about working spouse, physically handicapped, retiring persons, persons appointed under sports quota/on compassionate ground and persons or family members suffering from serious ailment. The argument of the applicant that the letter of Manish Kumar dated 6.2.2003 has no effect



in the presence of the aforesaid letter issued by the Comptroller and Auditor General of India seems to be correct. We have perused the order dated 9.6.2005 (Annexure-A-12) issued by the Principal Accountant General, Uttar Pradesh, Allahabad. It is about the transfer policy according to which officials are to be transferred to Uttranchal/ Dehradun. In this policy, officials/officers who have attained the age of 57 on 31.7.2005, handicapped and seriously ailing persons, women and employees of sports quota have been exempted from transfer. Thus, in view of the aforesaid order dated 31.7.2005 issued by the Principal Accountant General, Uttar Pradesh, Allahabad, the stand taken by the respondents in the impugned order dated 10.1.2005 that "the transfer policy formulated for UP/Uttanchal, however, does not provide for exemption to the unwilling women staff or for exemption to the employees recruited in the sports quota or for physically handicapped employees and those who had attained the age of 57 years", is not correct. In this view of the matter, the impugned order dated 10.1.2005, passed by the respondents deserves to be set aside.

6. In the result, the OA is allowed. The impugned order dated 10.1.2005(Annexure-A-1) is quashed and set aside. The respondents are directed to reconsider the transfer orders in the light of the transfer policy formulated for the audit/accounts staff of UP and take appropriate action within two months from the date of communication of this order and thereafter communicate the same to the applicant immediately. No costs.


(Madan Mohan)
Judicial Member


(M.P. Singh)
Vice Chairman