

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 281 of 2004

Jabalpur, this the 8th day of April, 2004

Hon'ble Mr. M.P. Singh, Vice Chairman  
Hon'ble Mr. Madan Mohan, Judicial Member

Babulal Tyagi  
S/o Late Shri K.L. Tyagi  
Age-56 years  
Occupation - Govt. Service  
R/o In-front-of Adarsh Colony,  
Shinde Ki chawni, Gwalior(M.P.)

APPLICANT

(By Advocate - Shri Sanjay Agarwal)

VERSUS

1. Union of India Through  
Comptroller & Auditor General of  
India, 10, Bahadur Shah Zafar Marg,  
New Delhi.
2. The Principal Accountant General  
(Audit)-I, Madhya Pradesh,  
Gwalior(M.P.)
3. The Dy. Accountant General (Admn.)  
O/o The Principal Accountant  
General(Audit)-I, Madhya Pradesh,  
Gwalior(M.P.)

RESPONDENTS

(By Advocate - Shri S.A. Dharmashikari)

ORDER (ORAL)

By M.P. Singh, Vice Chairman -

"(1) the impugned transfer order dated 8th/10th March, 2004 passed by the respondents may kindly be ordered to be stayed in the interest of justice"

2. The brief facts of the case are that the applicant was working at Bhopal as Senior Auditor in the office of Accountant General, Gwalior Branch, Madhya Pradesh. The respondents vide order dated 8.3.04 has transferred him from Gwalior to Raipur in the office of Accountant General, Raipur, Chhattisgarh. The applicant has taken number of grounds for quashing his transfer order. One of the main grounds taken by the applicant is regarding the election "Code of Conduct".



3. We have given careful consideration to the contentions made by the parties.

4. It is well settled proposition by the Hon'ble Supreme Court that the transfer is an incident of service and is an administrative matter, which should not be interfered with by the Courts/Tribunals unless it is made due to malafide or is in violation of statutory guidelines. In this case, we find that the applicant has neither taken the ground that the transfer has been issued in violation of statutory guidelines nor he has attributed any malafide against an officer. The only ground taken by the applicant is that ~~the~~ in view of the operation of the election 'Code of Conduct' no transfer should be done during this period.

5. The respondents vide their letter dated 1.4.2004 (Annexure-R-6) have stated that as per the telephonic conversation of the Accountant General (Audit) I, M.P. Gwalior with the Secretary, Code of Conduct, Election Commission, New Delhi, he has informed that the code of conduct is not applicable to the employees of Comptroller & Auditor General of India. It has also been clarified that "the restrictions placed on the Executive posting etc. may not be done to influence the voter in favour of the ruling party would not apply to transfer of audit personnel as Comptroller & Auditor General of India is not an executive and that transfer of Personnel under him in no way influence the voter." With this clarification given by the Election Commission it is ~~abundantly~~ clear that the Election Commission 'Code of Conduct' does not apply in the case of transfer of the audit personnel. Moreover this transfer is only for a period of 18 months.

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6. For the reasons recorded in the preceding paragraph, the OA is bereft of merits. Accordingly, it is dismissed. No costs.

(Madan Mohan)  
Judicial Member

(M.P. Singh)  
Vice Chairman

SKM

पृष्ठांकन सं ओ/न्या.....जबलपुर, दि.....  
पतिलिपि अग्रे निर्यात

- (1) सचिव, जल न्यायालय, जबलपुर, जबलपुर
- (2) आवेदक श्री/श्रीमती/श्री/श्रीमती.....के कारुंसल
- (3) प्रत्यक्षी श्री/श्रीमती/श्री/श्रीमती.....के कारुंसल
- (4) वर्यपाल, कोमला, जबलपुर जल न्यायालय  
सूचना एवं आवश्यक कार्यवाही हेतु

उप रजिस्ट्रार

S. Agrawal  
S. H. Dharmadhikari

Filed  
20/4/07