

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 282 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

Omprakash Sharma
S/o Late Shri R.C. Sharma
Age - 56 years
Occupation - Govt. Service
R/o 88, Sarswati Nagar,
University Road, Thatipur
Gwalior - 474011(M.P.)

APPLICANT

(By Advocate - Shri Sanjay Agrawal)

VERSUS

1. Union of India Through
The Comptroller & Auditor General
of India, Bahadur Shah Zafur 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. Dharmadhikari)

O R D E R (ORAL)

By M.P. Singh, Vice Chairman -

By filing this OA, the applicant has sought the following main relief :-

"(1) the impugned Caveat/transfer order dated 8th March, 2004 filed/passsed by the respondents may kindly be ordered to be quashed/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 8.3.2004, 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. One of the main grounds taken by the applicant^{is 2} 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 malafied 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 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 Account^{-ant}/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} ~~abandoned~~ clear that the Election Commission's 'Code of Conduct' does not

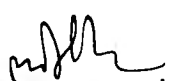


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apply in the case of transfer of the audit personnel.
Moreover this transfer is only for a period of 18 months.

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


(Madan Mohan)
Judicial Member


(M.P. Singh)
Vice Chairman

SKM

पृष्ठंकन सं ओ/का..... जयलपुर, दि.....
परिलिखित एवं विवरण:-
(1) सचिव, जयलपुर, जयलपुर
(2) अध्यक्ष, जयलपुर, जयलपुर
(3) प्रत्यक्ष निष्पत्ति, जयलपुर, जयलपुर
(4) कार्यपालक, जयलपुर, जयलपुर
सूचना एवं आवश्यक कार्यवाही के लिए
जयलपुर, दि.....
S. Agrawal
Sh. Maheshkari
रजिस्ट्रार

Filed
20/4/07