

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 286 of 2004

Jabalpur, this the 6th day of September, 2004

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

Shri Ganesh Ranjan Mukherjee,
S/o. Shri P.R. Mukherjee, aged
56 years, 122/47, Shrivaji Nagar,
Stop No. 6 1/2 Bhopal (MP)-462 016. ... Applicant

(By Advocate - Smt. S. Menon)

V e r s u s

1. Union of India, through
Secretary, Ministry of Finance,
Department of Revenue, New Delhi.
2. Comptroller and Auditor General of
India, 10, Bahadur Shah Zafar Marg,
Indraprastha, New Delhi.
3. Principal Accountant General (A&E),
Lekha Bhawan, Jhansi Road, Gwalior
(MP).
4. Senior Deputy Accountant General
(Works Accountant), Office of the
Accountant General (A&E)-I, Madhya
Pradesh, Bhopal (MP). ... Respondents

(By Advocate - Shri P. Shankaran)

O R D E R

By Madan Mohan, Judicial Member -

By filing this Original Application the applicant has
claimed the following main reliefs :

"I. to quash the impugned transfer order dated
24.3.2004 (Annexure A-10) and hold it as malafide and
illegal.

II. to issue appropriate directions to the respon-
dents to continue the applicant at Bhopal i.e. the
present place of posting and to pay him regular salary"

2. The brief facts of the case are that the applicant is
presently functioning as Senior Accountant, under the
control of respondent No. 4. The respondent No. 2 vide
order dated 27.8.1997 issued to all Accountant Generals,
directing that scheme of unilateral transfer in all cases




within Indian Audit and Accounts Department and from Ministries/Departments to Indian Audit and Accounts Department have been dispensed with. The office of Accountant General (Accounts and Entitlement)-I, MP and Chhattisgarh Gwalior issued an office order calling upon the incumbents to submit their option to the effect whether they would like to continue in the State of Madhya Pradesh or to be allocated to the State of Chhattisgarh. In so far as the applicant was concerned, he submitted his option to be retained in the State of Madhya Pradesh. Earlier the office of Accountant General (A&E)-I, M.P., Gwalior was known as Accountant General (A&E)-I, Madhya Pradesh and Chhattisgarh, Gwalior. While Accountant General (A&E)-II, Madhya Pradesh, Gwalior was known as Accountant General (A&E)-II, M.P. and Chhattisgarh, Gwalior. Earlier the two were independent offices but after reorganisation, and in particular with effect from 2.8.2002, the Accountant General, Chhattisgarh at Raipur became an independent office and this being the position an incumbent in the State of Madhya Pradesh could not have been transferred to the State of Chhattisgarh unless and until the ban was/is lifted by the respondent No. 2. The order of transfer is contrary to the instructions and guidelines issued by the respondent No. 2. The applicant suffered a Neurological stroke, resulting in permanent Bilateral Foot Drop and loss of sensation on sole of toe of both legs. He was advised to use Caliper i.e. artificial limb without which the applicant is unable to walk even a single step. The applicant underwent treatment at MY Hospital, Indore. So far as the disability of the applicant is concerned, the respondents are well aware of the same. The applicant is also a victim of Toxic Gas (MIC), which is reflected in order dated 26.7.1994. As regards his grievance he submitted a representation to the Deputy



Accountant General (A&E) on 5.9.2001. The respondents had floated a transfer policy which was for a period of 18 months, subject to review. The said policy was for a period of 18 months i.e. with effect from 14.8.2001 to February, 2003. The respondents unilaterally in a most haste manner, issued the order of transfer dated 24.3.2004, transferring the services of the applicant in the same capacity from Bhopal office of AG(A&E)-I, M.P. Bhopal to the office of AG, Chhattisgarh, Bilaspur Road, Raipur for a period of 18 months. The applicant again preferred a representation. But the representations have not been considered nor communication of the decision made thereof. The action of the respondents in issuing the order of transfer dated 24.3.2004 is patently and palpably illegal. Hence, this OA.

3. Heard the learned counsel for the parties and perused the records carefully.

4. It is argued on behalf of the applicant that earlier both the States of Madhya Pradesh and Chhattisgarh were under the administrative control of AG(A&E) I & II of Gwalior but later on AG, Chhattisgarh became independent. Hence the applicant could not have been transferred by the AG(A&E)-I, Gwalior. About the illness of the applicant the respondents are well aware that the applicant even cannot walk for a step ahead without help of the calipers. The applicant has filed the medical certificates in support of his claim. But ignoring all the provisions, the respondents have issued the transfer order dated 24.3.2004 which is against the rules and transfer policy and also the respondents have not considered the personal problems of the applicant. Hence, the impugned order is liable to be quashed and set aside.



5. In reply the learned counsel for the respondents argued that since the work relating to Chhattisgarh/^{State} has been transferred to the office of the Accountant General, Chhattisgarh, Raipur and for manning the transferred work, the required number of staff is also to be provided from Accountant General, MP. The circular dated 27.8.97 issued by respondent No. 2 is applicable only in the cases of on request unilateral transfers. These orders do not debar the respondents to transfer the applicant from their Bhopal branch office to newly formed office of the AG, Chhattisgarh Raipur due to formation of new state on administrative grounds. The applicant's transfer to newly formed office of AG at Raipur, Chhattisgarh is not a unilateral transfer. His transfer to Raipur office has been ordered in public interest to manage the functions of AG's office at Raipur. The transfer of the applicant is to meet the administrative requirements. It is not a case of permanent allocation to the office of AG, Chhattisgarh, Raipur. The applicant has not stated any malafide in his transfer. The transfer of the public servant is not only incidence of service but is also a condition of service. The respondents have not violated any rules while passing the transfer order of the applicant. So far as the disability of the applicant, the applicant has not shown the nature and degree of his disability.

6. After hearing the learned counsel for the parties and on careful perusal of the records, we find that the applicant has not proved the fact that this transfer is either malafide on the part of the respondents or is passed in contravention to any guideline or policy of the Government. The respondents are duly empowered to transfer the applicant to Raipur. We have perused the order dated 19th March, 2002 passed in OA No. 90/2002 and also order dated 1.5.2002 passed in WP No. 668/2002 and find that



both the cases are similar to the present case. The Hon'ble Supreme Court in the case of State of M.P. Vs. Sr. S.S. Kourav & Ors., JT 1995 (2) SC 498 held that "the courts or Tribunals are not appellate forums to decide on transfers of officers on administrative grounds. The wheels of administration should be allowed to run smoothly and the courts or tribunals are not expected to indict the working of the administrative system by transferring the officers to proper places. It is for the administration to take appropriate decisions and such decisions shall stand unless they are vitiated either by mala fides or by extraneous consideration without any factual background foundation." Hence, we do not find any illegality or irregularity in the order of transferring the applicant to Raipur, by the respondents. Thus, no interference is needed. However, keeping in view the disability of the applicant, we direct the applicant to submit a representation to the respondents stating his grievances within a period of two weeks from the date of receipt of copy of this order, and if the applicant complies with this, then the respondents are directed to consider the case of the applicant sympathetically looking to his disability, within a period of one month from the date of receipt of such representation.

7. With the above observations, we do not find any merit in this Original Application and accordingly, the same is dismissed. No costs.

(Madan Mohan)
Judicial Member

(M.P. Singh)
Vice Chairman

पुस्तक सं ओ/व्या.....जबलपुर, दि.....
पत्तिलिपि अत्रो दितः-

- (1) सचिव, उच्च न्यायालय कार एसेरिश्मन, जबलपुर
- (2) आवेदक श्री/श्रीमती/कु.....के काउंसल *Sub Sivan*
- (3) प्रवर्ती श्री/श्रीमती/कु.....के काउंसल *Shri P Shankaran*
- (4) ग्रंथपाल, को.प्र.अ., जबलपुर न्यायपीठ
सूचना एवं आवश्यक कार्यवाही हेतु
उप रजिस्ट्रार

"SA"

Issued
On 10.9.04
(Signature)