

**CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,  
JABALPUR**

**Original Application No. 884 of 2004**

Indore this the 18<sup>th</sup> day of October 2005

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

Anurag Saxena, son of late Shri S.C. Saxena,  
Aged 31 years, occupation Govt. service  
(Auditor 04/10290) office of the Principal  
Accountant General (Audit)I, M.P., Audit  
Bhawan, Gwalior (MP), Resident of CH-35-A,  
Deendayalnagar, Gwalior (MP). .... Applicant

(By Advocate – Shri S.C. Sharma)

**V e r s u s**

1. Union of India, through :  
The Comptroller & Auditor General  
of India, Bahadur Shah Zaffar Marg,  
New Delhi.
2. The Principal Accountant General,  
(Audit)I, M.P. Audit Bhawan, Gwalior.
3. The Dy. Accountant General (Admn.),  
Office of the Principal Accountant  
General (Audit)I, M.P., Audit Bhawan,  
Gwalior (MP). .... Respondents

(By Advocate – Shri M. Rao)

**O R D E R**

**By Madan Mohan, Judicial Member –**

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

“(A) the impugned order dated 7.10.2004 of transfer of applicant contained in Annexure A-6 may kindly be quashed alongwith relieving order,



(B) that respondents may kindly be directed to allow applicant on his duty in the office of respondents No. 1 & 2."

2. The brief facts of the case are that the applicant was appointed on the post of Clerk in the office of Accountant General (Audit) Gwalior on 10.4.1995. He accepted the appointment on the ground that he can be transferred at any place in Madhya Pradesh. Hence, the respondents were not empowered to transfer him out of MP i.e. in the new state of Chhattisgarh which has come into existence. The respondents have established a separate office of Accountant General in the State of Chhattisgarh which is stationed at Raipur. They have issued transfer policy Annexure A-3. This policy would be for a long period of 18 months and thereafter would be subject to review. As per this policy all willing optees be posted to Chhattisgarh, subject to availability of vacancies at Raipur and not being excluded elsewhere in the policy. It is also provided that the transfers will be done in order of one senior and one junior in each cadre for a period of 18 months. The applicant is transferred from Gwalior to Chhattisgarh from the office of the Accountant General, (Audit), Gwalior, to the Accountant General, Chhattisgarh Office at Raipur vide order dated 7.10.2004. He was relieved on 18.10.2004. This action of the respondents is arbitrary, illegal and malafide and the transfer order is passed in violation of the transfer guidelines issued by the respondents. Hence, this Original Application is filed.

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

4. It is argued on behalf of the applicant that the applicant was appointed with the condition that he was only to be transferred within the State of Madhya Pradesh and by the impugned order the respondents have transferred him to the office of Accountant General, Chhattisgarh which is at Raipur vide order dated 7.10.2004 as he was also relieved vide order dated 18.10.2004. This is an illegal order passed against the transfer



policy and also against the order passed by the Hon'ble Supreme Court on 20.7.2004. The Hon'ble Supreme Court treated this transfer to be on deputation and afforded all allowances on that basis. Hence, the Original Application deserves to be allowed.

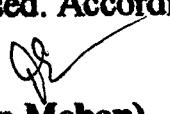
5. In reply the learned counsel for the respondents argued that in the similar facts and circumstances of this case the Hon'ble High Court of Madhya Pradesh Bench at Gwalior has dismissed similar prayer of cancellation of transfer on the ground that the transfer is contrary to the policy laid down, pertaining to transfers in the case of B.L. Tyagi Vs. Union of India in WP No. 895-2004 decided on 3.11.2004. The Tribunal has also rejected the prayer of transfer of various other transferees from Gwalior to Raipur in similar facts and circumstances in the cases of Preeti Sharma Vs. Union of India, Swapnil Saha Vs. Union of India and SAS Audit Welfare Association Vs. Union of India, decided on 4.11.2004 in OAs Nos. 433 to 435 of 2004 respectively. The transfer is an incident of service and precondition of a Government service. The respondents have already assailed the decision of the Hon'ble Allahabad High Court in the Hon'ble Supreme Court which is pending for final decision. The facts of the case of the Hon'ble Allahabad High Court are different from the facts of this case. Here in this case the cadre controlling authority is one and the same, while the cadre controlling authority of AG (UP) and AG (Uttaranchal) are different. The transfer order is well within the competence of the cadre controlling authorities and parameters of law and that the transfer policy is a guideline for the respondents to follow and does not have statutory force, hence it cannot be a ground for assailing the transfer. Therefore, this Original Application has no merit and is liable to be dismissed.

6. After hearing the learned counsel for the parties and on careful perusal of the pleadings and records, we find that the Hon'ble High Court in Writ Petition No. 895/2004 B.L. Tyagi Vs. Union of India and others



has dismissed the WP on 3.11.2004. We have perused the order passed by this Bench of the Tribunal in OA No. 433 of 2004, 434 of 2004 and 435 of 2004 dated 4.11.2004 and find that the Tribunal rejected the case after considering all facts and circumstances of the cases. So far as the order passed by the Hon'ble High Court of Allahabad we find that the argument advanced on behalf of the respondents that the order passed by the Hon'ble High Court of Allahabad is assailed by them in Hon'ble Supreme Court and the matter is pending and also that the facts of the matter decided by the Hon'ble High Court of Allahabad are entirely different with the present case as the cadre controlling authority of AG (UP) and AG (Uttaranchal) are different while in the present case the cadre controlling authority is one and the same, seems to be correct. We further find that the order passed by the Hon'ble High Court of Madhya Pradesh, has not been challenged before the Hon'ble Supreme Court. We also find that the applicant is only ordered to be transferred for 18 months.

7. Considering all the facts and circumstances of the case we are of the considered view that this Original Application deserves to be dismissed. Accordingly, the same is dismissed. No costs.

  
**(Madan Mohan)**  
 Judicial Member

  
**(M.P. Singh)**  
 Vice Chairman

**"SA"**

कृष्णनन्द सं. ओ/न्या..... जनलाल, दि.....  
 पतिलिपि अक्षो डित : -  
 (1) सचिव, उच्च न्यायालय दर्ता एकोरिएशन, जनलाल  
 (2) आनेक श्री/श्रीमती/हु..... के काउसल  
 (3) इत्यरी श्री/श्रीमती/हु..... के काउसल  
 (4) वायपाल, कोपा. जनलाल जनलाली देव  
 सूचना एवं आवश्यक कार्यवाही देव  
 उप रजिस्ट्रार

  
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 26-10-05