

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

ORDERS OF THE BENCH

25.08.2011

OA No. 150/2011 with MA 166/2011

Mr. Dinesh Sharma, Proxy counsel for
Mr. Prahlad Singh, Counsel for applicant.
Mr. Mukesh Agarwal, Counsel for respondents.

On the request of the proxy counsel appearing on
behalf of the applicant, put up on 30.08.2011 for further
arguments.

IR to continue till the next date.

K. S. Rathore
(Justice K.S. Rathore)
MEMBER (J)

AHQ

30/08/2011

OA 150/2011 With MA 166/2011

*Mr. Prahlad Singh, Counsel for applicant.
Mr. Mukesh Agarwal, Counsel for respondents.*

Heard.

*The O.A. and M.A. are disposed
of by a separate order on the
separate-sheets for the reasons
recorded therein.*

K. S. Rathore
[Justice K.S. Rathore]
Member (J)

**CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR**

**ORIGINAL APPLICATION NO. 150/2011
WITH
MISC. APPLICATION NO. 166/2011**

Date of Order: 30.08.2011

CORAM:

HON'BLE MR. JUSTICE K.S. RATHORE, MEMBER (JUDICIAL)

Jagveer Singh S/o Shri Bhagwan Singh Jhajharia, aged about 41 years, R/o V.P.O. Bharonda Khurd, District Jhunjhunu, Rajasthan. At present working in the office of the Executive Engineer, PWD, Div. Jhunjhunu.

...Applicant

Mr. Prahlad Singh, counsel for applicant.

- Versus -

1. The Union of India through the Comptroller & Auditor General of India, New Delhi.
2. The Principal Accountant General (A&E), Rajasthan, Jaipur.

...Respondents

Shri Mukesh Agarwal, counsel for respondents.

ORDER (ORAL)

The present Original Application is directed against the order dated 08.04.2011 (Annex. A/1). Vide impugned order dated 08.04.2011, the applicant has been transferred from the office of the Executive Engineer, PWD, Division Jhunjhunu to the office of the Executive Engineer, PHED, Narmda Canal Project Division-I, Sanchoe, Jalore.

2. The impugned transfer order challenged by the applicant is on the ground that the respondents while transferring the applicant from Jhunjhunu Division to the Sanchoe Division has violated the guidelines / instructions issued on 23.08.2010 (Annex. A/2) by the Comptroller & Auditor General of India



regarding transfers and postings of the Divisional Accounts Officer / Divisional Accountants.

3. The learned counsel appearing for the applicant referred the classification of divisions, and demonstrated before the Tribunal that the applicant is serving as Divisional Accounts Officer Grade-I in Heavy Division Jhunjhunu, whereas he has been transferred to Medium Division Sanchore, and he further referred the conditions that he has not completed the tenure as laid down in the guidelines issued by the respondents.

4. The learned counsel for the applicant has also submitted that the request of the applicant has not been considered by the respondents at the time of his transfer as his children are studying in Pilani and he has to look after his old parents. Thus, in mid of the academic session, the respondents cannot transfer the applicant. He has further submitted that the respondents have not considered the choice place of posting as given by the applicant.

5. The respondents have strongly controverted the facts as mentioned by the applicant, and submitted that the applicant has completed his normal tenure of six years in Jhunjhunu District in the month of June 2010 and as per the instructions issued by the respondents from time to time, he has rightly been transferred. As per the recommendation of the Standing Committee, the Accountant General (A&E) Rajasthan, Jaipur has been pleased to transfer the applicant from Jhunjhunu Division



to Sanchore Division, and one Shri Gopi Chand Saini, Senior DAO, who has completed his six years tenure at Barmer Division, has been transferred from the office of Executive Engineer, PWD Division Barmer to the office of Executive Engineer, PWD Division Jhunjhunu i.e. in place of the applicant.

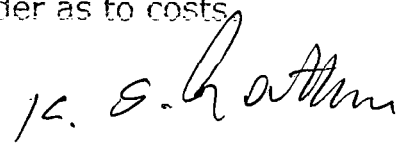
6. It is not disputed that during the pendency of this Original Application, Shri Gopi Chand Saini has been accommodated to some other place as this Court, while issuing the notice to the respondents, vide order dated 21.04.2011 has stayed the effect and operation of the impugned transfer order dated 08.04.2011 (Annex. A/1) and also restrained the respondents from relieving the applicant from the present place of posting. Therefore, pursuant to the stay order dated 21.04.2011, the applicant has not been relieved from Jhunjhunu Division, but as per the guidelines, admittedly, the applicant has completed his normal tenure of six years in Jhunjhunu Division.

7. Therefore, in view of this fact, considering the submissions made on behalf of the respective parties and upon careful consideration of the guidelines issued by the respondents regarding transfers and postings and also the transfer order, I am of the view that the case of the applicant be considered by the respondents for transferring him from Jhunjhunu Division to some other Division in accordance with the guidelines / instructions as the applicant has completed his tenure of six years in Jhunjhunu Division. Therefore, the applicant is not entitled to continue at Jhunjhunu Division.



8. In view of the above, the respondents are directed to consider the case of the applicant afresh for the purpose of transferring him from Jhunjhunu Division to another division strictly in accordance with the guidelines / instructions issued by the respondents, and it is expected from the respondents that they shall consider the case of the applicant within a period of one month from the date of receipt of a copy of this order, and till then the interim order passed by this Bench of the Tribunal dated 21.04.2011 shall remain in force, and immediately after passing the fresh transfer order, the interim order dated 21.04.2011 shall stand automatically vacated.

9. With these observations and directions, the Original Application stands disposed of. Consequently, the Misc. Application is also disposed of. No order as to costs.


(JUSTICE K.S. RATHORE)
MEMBER (JUDICIAL)

Kumawat/-