

**CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR**

ORDER SHEET


ORDERS OF THE TRIBUNAL

10.07.2013

OA No. 503/2013

Mr. Ashwini Jaiman, Counsel for applicant.

Heard learned counsel for the applicant. The OA is disposed of by a separate order.


(S.K. Kaushik)
Member (J)

(Anil Kumar)
Member (A)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH, JAIPUR.

ORIGINAL APPLICATION No. 503/2013

Jaipur, the 10th day of July, 2013

CORAM :

HON'BLE MR. ANIL KUMAR, ADMINISTRATIVE MEMBER

HON'BLE MR. S.K. KAUSHIK, JUDICIAL MEMBER

1. Hanuman Gupta son of Shri Ram Gopal, aged about 47 years, resident of 72/23, A.G. Lane, Aravali Marg, Jaipur. Presently working as Division Accounts Officer Grade I in the office of EE PWD District Division, Jodhpur and relieved in furtherance of the order dated 21.06.2013 to join at Jaipur.
2. Subhash Chand Sharma son of Shri Jagdish Chand Sharma, aged about 49 years, resident of 63, Moti Nagar, Purani Chungi, Ajmer Road, Jaipur at present working as Division Accounts Officer Grade I in the office of EE PWD Bhilwara and relieved in furtherance of the order dated 21.06.2013 to join at Jaipur.
3. Rajkumar Jain son of Shri Ganesh Lal Jain, aged about 47 years, resident of A-35, Chatri Yojna, Ajmer at present working as Division Accounts Officer, Grade I in the office of Water Resources Department Division -2 Ajmer and relieved in furtherance of the order dated 21.06.2013 to join at Jaipur.
4. Ramcharan Gupta son of Shri Gulab Chand, aged about 47 years, resident of Ajmer at present working as Division Accounts Officer Grade I in the office of EE PWD City Dn. Ajmer and relieved in furtherance of the order dated 21.06.2013 to join at Jaipur.
5. Roshan Lal Rathi son of Shri Sultan Singh, aged about 53 years, resident of Ranisati Nagar, Jaipur at present working as Division Accounts Officer Grade I in the office of PHED Balotra and relieved in furtherance of the order dated 21.06.2013 to join at Jaipur.

... Applicants

(By Advocate: Mr. Ashwini Jaiman)

Versus

1. Union of India through Secretary, Finance Department, North Block Central Secretariat, Govt. of India, New Delhi.
2. Principal Accountant General (Accounts and Entitlement) Rajasthan, Jaipur.
3. Principal Secretary, Finance Department, Government of Rajasthan, Secretariat, Jaipur.

... Respondents

(By Advocate: -----)

ORDER (ORAL)

The applicants have filed this OA praying for the following reliefs:-

- “(i) By an appropriate order or direction, the impugned order dated 21.06.2013 (Annexure A/1) may be declared bad and illegal to the extent it affects the applicant and may kindly be quashed and set aside qua the applicants.
- (ii) By an appropriate order or direction the respondents may be directed to continue the applicants on their respective posting places of where they were working prior to passing of the order dated 21.06.2013.”

2. Learned counsel for the applicants submitted that the applicants are working on deputation with the State Government of Rajasthan. They are holding the post of Divisional Accounts Officer Grade I. Their Parent Department is Principal Accountant General (Accounts and Entitlement) Rajasthan, Jaipur. The applicants are the employees of the Central Government and were sent on deputation by the Principal Accountant General (Accounts and Entitlement) Rajasthan, Jaipur to the State Government vide order enclosed as Annexure A/2 of the OA. These orders clearly stipulate that the period of deputation will be initially for one year or till the transfer of the Divisional Accountant Cadre to the State Government whichever is earlier.

3. Learned counsel for the applicants submitted that respondent no. 2 i.e. Principal Accountant General (Accounts and

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Entitlement) Rajasthan, Jaipur can only pass the order of shifting or transfer of the applicants.

4. Learned counsel for the applicants further stated that by an interim order dated 10.08.2010 of the Hon'ble High Court, Rajasthan in DB Civil Special (Writ) No. 299/2010 in the case of Sita Ram Sharma & Another vs. Tilak Raj & Others permitted the State Government to fill 252 posts of Divisional Accountant, which are lying vacant. However, in the garb of the aforesaid order, the State Government issued the impugned order dated 21.06.2013 (Annexure A/1) whereby certain Accountants, Junior Accountants of the State Government have been posted against certain vacant posts of Divisional Accountants. He further submitted that the applicants are working in the respective places wherein certain persons have been transferred vide order dated 21.06.2013 (Annexure A/1). He emphasized that the State Government could not issue such order before the end of the deputation period of the applicants. He drew our attention to the order dated 03.07.2013 issued by the Principal Accountant General (Accounts and Entitlement) Rajasthan, Jaipur. (Annexure A/5) vide which the deputation period of the applicants have been further extended.

5. The State Government is mis-interpreting the interim order dated 10.08.2010 passed by the Division Bench of Hon'ble High Court (Annexure A/3) and, therefore, the order passed by the State Government dated 21.06.2013 (Annexure A/1) may be

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declared illegal to the extent it affects the applicants and it should be quashed and set aside qua the applicants.

6. Heard learned counsel for the applicant and perused the relevant documents on record. We have carefully perused the interim order passed by the Hon'ble High Court of Rajasthan in DB Civil Special Appeal (Writ) No. 299/2010 in the case of Sita Ram Sharma & Another vs. Tilak Raj & Others decided on 10.08.2010 (Annexure A/3). In this order, the Hon'ble High in Para No. 2 of the order has held as under:-

"Learned Advocate General argued that because of interim stay order passed by this Court, the State Government is suffering day to day for want of Divisional Accounts and day to day working is suffering. It is contended that there are 354 posts of Divisional Accountant, which are required to be filled up by the State Government. The cadre of Divisional Accountant and its administration have been transferred to the State Government by the Comptroller and Auditor General of India, which is clear from Notification dated 20th February, 2004. Learned Single Judge has already protected the interest of writ petitioners and other similarly situated persons, who have not approached the Court also and they are 102 in number. He contended that there are 354 posts of Divisional Accountants and State Government is empowered to fill up all these posts. Since interim stay orders were operating from time to time, therefore, the same could not be filled up and now the learned Single Judge has allowed the State Government to fill up the posts of Divisional Accountant, except 102 posts on which the Divisional Accountants appointed by the Central Government are already working. He contended that at least State Government be permitted to fill up remaining 252 posts of Divisional Accountant so that day to day working may not suffer. He contended that Notification dated 20th February, 2004 was issued by the State Government with the approval of the President of India and concurrence of Comptroller of Auditor General of India. The relevant letters dated 20th October, 1994 and 20th February, 2004 were also placed on record. During the course of arguments, Articles 148(5), 77 and 166 of the Constitution were also referred."

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7. The learned counsel for the applicant admitted that the applicants are not amongst 102 Writ Petitioners and other similarly situated persons who have not approached the Court and whose interest have been protected by the Learned Single Judge. Thus it is clear that the applicants are not amongst 102 officials whose interest has been protected by the Learned Single Judge, as mentioned in the order of the Hon'ble High Court dated 10.08.2010 (supra).

8. The perusal of the order dated 21.06.2013 (Annexure A/1) clearly show that the State Government has issued these orders in pursuance of the orders of the Hon'ble High Court dated 10.08.2010 passed in the D.B. Civil Special Appeal (Writ) No. 299/2010 (supra) (Annexure A/3). They have further mentioned that these orders are subject to the final outcome of the DB Speicial Writ Petition No. 299/2010, 300/2010 and 305/2010 pending before the Hon'ble High Court. Since the order dated 21.06.2013 has been passed by the State Government in pursuance of the order passed by the Hon'ble High Court dated 10.08.2010 in DB Civil Special Appeal (Writ) No. 299/2010, 300/2010 and 305/2010 (SB Civil Writ No.15296/2009), therefore, we are of the opinion that this Tribunal cannot interfere with the order dated 21.06.2013 at this stage as the Writ Petition is still pending before the Hon'ble High Court, Rajasthan. Thus the matter is sub-judice before the Hon'ble High Court, Rajasthan. Hence, the present OA is not maintainable before this Tribunal at this stage.

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9. Consequently the OA is dismissed at admission stage with no order as to cost.


(S.K. Kaushik)
Member (J)


(Anil Kumar)
Member (A)

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