

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No.180/01003/2018

Friday, this the 21st day of December, 2018

Hon'ble Mr. E.K. Bharat Bhushan, Administrative Member
Hon'ble Mr.Ashish Kalia, Judicial Member

Kunjuraman.A, aged 52 years, S/o.Ayyan
Assistant Accounts Officer (Civil)
Office of the Accountant General,
(G&SSA), Kerala
Thiruvananthapuram
Residing at:"ZIGMA"
ZIGMARRA 22-A, Rose Nagar
Sreekaryam, Thiruvananthapuram – 695 017 **Applicant**

(By Advocate – Mr.T.C.G Swamy)

v e r s u s

- 1 The Accountant General (G&SSA)
Kerala, Thiruvananthapuram – 695 001
2. The Deputy Accountant General (SG S II)
Office of the Accountant General (A&E)
Kerala, Thiruvananthapuram – 695 001
3. The Senior Audit Officer/SGS II (HQ) I
Office of the Accountant General (A&E)
Kerala, Thiruvananthapuram -695 001
4. The Comptroller & Auditor General of India
No.9, Deendayal Upadhyay Marg
New Delhi – 110 124 **Respondents**

(By Advocate – Mr.V.V.Asokan, Sr. with Mr.K.I.Mayankutty Mather)

This Original Application having been heard and reserved for orders on 18.12.2018, the Tribunal on 21.12.2018 delivered the following :

ORDER

Per: Mr.E.K.Bharat Bhushan, Administrative Member

Original Application No.1003/2018 is filed by Shri.Kunjuraman.A, Assistant Accounts Officer (Civil), Office of the Accountant General, (G&SA), Kerala against the order at Annexure A-1 deputing the applicant to University of Kerala, Trivandrum for field audit work. He seeks the following reliefs:

- “(i) Call for the records leading to the issuance of Annexure –A1 and quash the same to the extent it transfers the applicant from headquarters office to field party;
- (ii) Direct the respondents to retain the applicant at the headquarters office as if Annexure A1 to the extent it relates to the applicant had not been issued at all;
- (iii) Award costs of and incidental to this petition;
- (iv) Pass such other orders or directions as deemed just fit and necessary in the facts and circumstances of the case.”

2. The applicant, who joined the Accountant General's office at Trivandrum on 17.6.1993, is currently occupying the post of Assistant Accounts Officer (Civil) since April 2012. Currently he is working under the General and Social Sector Audit (G & SSA) since December 2017. He is the elected General Secretary of the Audit Association Category II, an Association recognised by the respondents. His tenure as an office bearer of the Association would continue till the next Annual General Meeting which meets in May 2019. It may be recalled that the applicant had been General Secretary of the Association since May 2016.

3. It is maintained that the General Secretary and one Executive Member of the Association are always required to work at the Headquarters office in order to maintain, what the applicant calls, harmonious relationship with the management. This arrangement has been institutionalised with the approval of the Comptroller and Auditor General of India and a communication at circular NGE/129/B2 (Annexure A-2) is evidence of the same. As per Annexure A-3, the said Association has also brought it to the notice of respondent no.1 that the applicant ought not to be sent on field duty in view of his onerous responsibilities as General Secretary of the Association.

4. As part of field duties, the applicant will be required to travel throughout Kerala, auditing one office after another, as directed by the Deputy Accountant General (SGS-II). In an identical situation under Accountant General, Chennai, the General Secretary of the Association has been exempted from field posting. However, the applicant submits that he had undergone a treatment for heart disease and had to undergo stenting at Sree Chitra Tirunal Institute for Medical Sciences and Technology as per Annexure A-5 document.

5. The standing counsel appearing for the respondents filed a statement on behalf of the respondents disputing the contentions of the applicant. It is stated that the staff of the office of the Accountant General (Audit) are required to work in Headquarters as well as be part of field audit parties. The

applicant belongs to Assistant Audit Officer category and this cadre is the backbone of the audit process and more than 65% of the cadre is deployed for field audit duties.

6. In so far as the applicant is concerned, he has not been posted to field audit since 2004 and has continuously worked at Headquarters and no Assistant Audit Officer can claim permanent exemption from field audit duties for whatever reasons. As he is likely to be promoted in his turn, he ought to have acquired sufficient experience in field audit as well as at Headquarters. It was in this context that as per Annexure A-1 order, he was posted in the place of an Assistant Audit Officer who has been functioning in that role since September 2014. It is also mentioned that the official Headquarters of the applicant remains Trivandrum, which is the administrative Headquarters of the office of Accountant General (Audit).

7. It is to be further noted that the present posting of the applicant is to Kerala University at Trivandrum itself and only till the end of January 2019. During the transfer of the applicant, the Treasurer of the Audit Association Category II has been posted at Headquarters to enable the smooth functioning of the Association.

8. It is seen that the applicant has not exhausted available remedies under the service rules. He has not represented before his Controlling Officer or the

Head of the Department against the posting order. It was also wrong on the part of the applicant's Association to have submitted Annexure A-3 letter, espousing the case of an individual as per Rule 6(b) of CCS (Recognition of Service Association) Rules, 1993. The applicant is making much about his deputation to the field. In reality, he has only been deputed to a field audit party functioning at the same city and can claim no great inconvenience on that count.

9. When the O.A was heard for the first time on 10.12.2018 this Tribunal ordered status quo to be maintained.

10. Shri.T.C.G Swamy, learned counsel for the applicant and Mr.V.V.Asokan,Senior Advocate with Mr.K.I.Mayankutty Mather, learned counsel for the respondents were heard.

11. The applicant's case is that, being a General Secretary of a recognised Association of employees, he is exempted from all transfers and he is required to stay at Headquarters. He calls to his assistance Annexure A-2 instructions, whereby the office of the Comptroller General has instructed that General Secretary and one Executive Member of each of the recognised Association “may be exempted from field duty”. This has been further reiterated by communication at Annexure A-4. The applicant maintains that the move of the respondents has caused him and his Association great

distress. The respondents on the other hand stated that the employee concerned has not been put in field duties since 2004 and experience in the field is necessary for all Assistant Audit Officers. Besides, it is maintained that 65% of audit staff are working in field postings. It is maintained that for the interest of the professional advancement of the applicant also, experience in the field is essential.

12. It is not a dispute pertaining to a serious service matter. A General Secretary of an Association is contesting his transfer from Headquarters to another establishment possibly at a little distance, where he is required to be part of a field duty team. He contests the same on the ground that he is the General Secretary of the Association, a position which he is holding for the last few years. The communication from the Comptroller and Audit General's office at Annexure A-2, is of 1989 vintage. First and foremost, it is seen that the employee has rushed to the Tribunal without first exhausting all the remedies available to him. From this point of view, the Original Application is premature. And we are also inclined to view the copy of the circular at Annexure A-2 as more in the nature of an advisory and not as a statutory rule, the wording itself indicating that it would be open to the competent authority to act on the same, as per its best judgment. In so far as his health condition is concerned, he continues to be headquartered in Trivandrum.

13. The respondents have indicated that in order to facilitate the interaction with the Association, the Treasurer of the said Association has been retained in Head Office. According to us, this would suffice while the applicant acquires atleast some experience of field duties. After all, being a General Secretary of Audit Association Category II, most of whose members are part of field audit teams, the applicant should not run away from the opportunity to engage himself with duties which would give him necessary exposure to the work undertaken by a majority of the members of the Association.

14. We see no merit in the Original Application and dismiss the same. No costs.

(ASHISH KALIA)
JUDICIAL MEMBER

(E.K.BHARAT BHUSHAN)
ADMINISTRATIVE MEMBER

List of Annexures

Annexure A1 - True copy of Note bearing No.SGSII(HQ) I/III/Posting/2018-19/Tr.898 dated 04.12.2018, issued from the office of the 3rd Respondent.

Annexure A2 - True copy of Office Memorandum issued from the Office of the Comptroller and Audit General of India, New Delhi under No. NGE/129/B2.

Annexure A3 - True copy of letter dated 05.12.2018 addressed to the 1st respondent by the applicant's Association.

Annexure A4 - True copy of order bearing No.519-Staff(JCM)/4-2016/KW dated 25.10.2017, issued from the office of the 4th respondent.

Annexure A5 - True copy of Certificate dated 01.11.2018 issued by the Sree Chitra Tirunal Institute for Medical Sciences & Technology in favour of the applicant.

Annexure A6 - Office Memorandum bearing No.27/3/69-ESTT(B) dated 08.04.1969, issued by the Ministry of Home Affairs.

Annexure A7 - Office Memorandum No.6/1/2013-EC.I dated 20.06.2013, issued by the Ministry of Home Affairs.

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