

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No. 041/00461/2016

Date of Order: This, the 10th day of December 2018

Circuit Court at Agartala

THE HON'BLE SMT. MANJULA DAS, JUDICIAL MEMBER

THE HON'BLE MR. N. NEHSIAL, ADMINISTRATIVE MEMBER

Sri Ram Prasad Acharyya
Son of Sri Sailendra Acharjee
Senior Accountant, Office of Accountant General (A&E)
Tripura, P.O. – Kunjaban, Agartala
Tripura, Pin – 799006.

...Applicant

By Advocates: Mr. M. Chanda, Mrs. U. Dutta & Mr. A.K. Das

-Versus-

1. The Union of India
Through the Comptroller and Auditor
General of India (CAG), New Delhi – 110124.
2. The Accountant General (A&E)
Tripura, P.O. – Kunjaban, Agartala
Tripura, Pin – 799006.
3. The Accountant General (Audit)
Tripura, P.O. – Kunjaban, Agartala
Tripura, Pin – 799006.
4. The Sr. Audit Officer (Admn)
Office of the Accountant General (Audit)
Tripura, P.O. – Kunjaban, Agartala, Tripura, Pin – 799006.
5. The Union Public Service Commission
Represented by the Secretary
Dholpur House, Shahjahan Road
New Delhi, Delhi – 110069.

...Respondents

By Advocate: None

ORDER

N. NEHSIAL, MEMBER (A):

Being aggrieved with the letter dated 22.07.2016 (so far the applicant is concerned) whereby the applicant has been sought to be repatriated back to his parent department in the office of the Accountant General (A&E), Tripura, the applicant has preferred the instant O.A. under section 19 of the Administrative Tribunals Act 1985 with the following reliefs:

- “8.1 That, the Hon'ble Tribunal be pleased to set aside and quash the impugned Estt. Order No. 82 dated 22.07.2016 so far the applicant is concerned and impugned Estt. Order No. 84 dated 29.07.2016.
- 8.2 For that, the Hon'ble Tribunal be pleased to direct the respondents to absorb the applicant to the post of Assistant Audit Officer (AAO) in the office of A.G (Audit), Tripura in terms of policy decision laid down in circular dated 02.04.2013 issued by the office of Comptroller General of India, New Delh.
- 8.3 Cost of the case.
- 8.5 Any other relief/reliefs Hon'ble Tribunal is pleased to grant the above reliefs are prayed on the ground stated in para 5 above.”

2. Heard Mr. M. Chand, learned counsel for the applicant. None appeared on behalf of the respondents. Since learned counsel for Accountant General Mr. G. Baishya had filed letter of absence expressing his inability to attend at Circuit Court at Agartala on 02.11.2018, as such, on 02.11.2018, this Court allowed to file written argument, if any, within a period of seven days and accordingly, the

respondent Nos. 2, 3 & 4 have filed their written argument on 19.11.2018.

3. Brief facts narrated by the applicant in his case are that pursuant to Office Circular No. 04 dated 16.05.2013 whereby applications were invited from SAS (Civil Audit) passed officials of A&E offices for appointment and absorption to the office of the Accountant General (Audit), Tripura, Agartala, against vacant post of Assistant Audit Officers in the Pay Band of Rs. 9300-34800/- plus Grade Pay Rs. 4800/- per month and the selected officials would be initially taken on deputation basis without deputation allowance. The applicant who is a SAS Examination passed officials of A.G. (A&E), Tripura, made application in response to the policy decision issued vide letter dated 02.04.2013 for absorption to the cadre AAO in Civil Audit offices. Accordingly, the applicant was selected for absorption to the post of Assistant Audit Officer in the Pay Scale of Rs. 9300-34800/- with Grade Pay of Rs. 4800 and was directed to assume charge on or before 15.08.2013. However, without prior intimation, vide order E.O. No. 82 dated 22.07.2016, the applicant has been repatriated to the office of the Accountant General (A & E), Tripura with effect from 01.08.2016. Being aggrieved with the action of the respondent authority, he represented the respondent authority vide letter dated 28.07.2016 which was however, rejected by stating, inter alia, as hereunder:

"This office noted your unsatisfactory performance in audit assignments, cases of indiscipline involving in-subordination, unauthorized absence from duty station without informing Supervisor or Headquarter.

Any further communication in future should invariably come through proper channel i.e. AG (A&E) to enable processing at our end."

4. On going through the records submitted by the parties along with their pleadings, it is observed that the service details of individual who have applied for permanent absorption has to be submitted along with the request to forward the application of the willing candidates with the copies of their APARs for the last 5 years (each and every page being duly attested), Bio-data and Inter-se Seniority list of the concerned officials and composite statement of cadre clearance/Integrity Certificate, Vigilance Clearance/Major/Minor Penalty etc before 30.06.2013. On the basis of submission made to Headquarter Office, New Delhi, the competent authority has accorded approval for absorption of the applicant vide letter No. Staff (App.II)/51-2014/Vol. VI/KW dated 28.11.2014.

5. The respondent authorities particularly respondent No. 3 instead of issuing formal order for absorption has repatriated vide order No. 82 dated 22.07.2016 that is nearly after 2 years. The ground for his denial for absorption has been stated to be that the applicant displayed misconduct in field duties, unauthorisedly absent from field duties, submitted daily allowance vide his letter dated 28.07.2016 and his integrity was not satisfied in the APAR for the year 2015-16.

6. In the above context, it is difficult to appreciate the stated misbehaviour and misconduct of the applicant in the subsequent period, his submission of Scheme in 2016 and his integrity not being certified in the APAR 2015-16 are held against him for his absorption which have already been approved in 2014. Perusal of the approval of the competent authority does not indicate any stipulation wherein the performance, conduct and integrity of the applicant has to be kept under watched for further period. Bringing the above issues at the later date subsequent to the approval by the competent authority is not justified and not maintainable in the eye of law. Moreover, the applicant has already been subjected to details scrutiny by the respondent authorities before his application was forwarded to the competent authority in their Headquarter Office, New Delhi.

7. Considering the above facts and circumstances, it is felt that the respondent authorities have been unfair to the applicant in denying him the benefit of permanent absorption in (Civil Audit) in the office of the Accountant General (Audit), Tripura, Agartala inspite of the fact that he had already been scrutinized, cleared, recommended and forwarded to the Competent Authority and also approved by the competent authority in their Headquarter Office on 26.11.2014. This action on the part of the respondent No. 3 is found to be unfair, against principles of natural justice and bad in law. The

Estt. Order No. 82 dated 22.07.2016 of Accountant General (A&E), Tripura, Agartala repatriating the applicant to his previous parent office is liable to be quashed and set aside. Accordingly, the same is quashed and set aside. We hereby direct the respondents more particularly respondent No. 3 to issue suitable order immediately not later than one month from the date of receipt copy of this order, for his permanent absorption in compliance of the approval already accorded by Headquarter Office, New Delhi vide their letter dated 26.11.2014.

8. O.A. stands disposed of with no order as to costs.

(N. NEHSIAL)
MEMBER (A)

(MANJULA DAS)
MEMBER (J)

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