

**THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY**

WRIT PETITIONS Nos.38761 & 38762 of 2014

COMMON ORDER: (per Hon'ble Sri Justice Ramesh Ranganathan)

The petitioners have been transferred from Zone – III to the Directorate of State Audit at Hyderabad. Rule 3 of the Andhra Pradesh State Audit Service Rules, 2014 (for short 'the Rules'), notified in G.O.Ms.No.113 dated 20.05.2014, prescribes, among others, the method of appointment and the appointing authority. Rule 3(6) thereof stipulates that, for the category of Assistant Audit Officer, the appointing authority shall be the Regional Deputy Director of State Audit. Rule 9 relates to the unit of appointment and, for the post of Assistant Audit Officer, Zone – III consists of three Districts i.e. Guntur, Prakasam and Nellore. The petitioners herein were holding the post of Assistant Audit Officers at Guntur which falls in Zone – III. Rule 10 relates to transfers and postings and, thereunder, all transfers and postings of persons belonging to category 6 are required to be made by the Regional Deputy Director of State Audit of the respective zones.

In the counter affidavit filed by the respondents, it is stated that there are five posts of Assistant Audit Officers, earmarked for Zone – III, in the Directorate at Hyderabad; and, it is only for these five posts, were the petitioners transferred from Zone – III to Hyderabad.

The contention, urged on behalf of the respondents, is that as transfer, to the Directorate of State Audit at Hyderabad, is only to the posts earmarked for Zone – III, the Regional Deputy Director is competent in terms of Rule 10 of the Rules. The contention, urged on behalf of the petitioners, however, is that, in terms of Rule 38(c) of the Andhra Pradesh State and Subordinate Service Rules, 1996 (for short '1996 Rules'), all transfers and postings of a member of State or

Subordinate Service shall be made, subject to sub-rules (a) and (b), by the appointing authority specified in the special rules or to whom the appointing authority has delegated such power of postings and transfers. Under Rule 38(c)(ii) thereof, the head of the department may transfer a member of a service from the unit of one appointing authority to the unit of another appointing authority where the Presidential Order is not applicable.

Para 14 (b) of the Presidential Order provides that nothing in the Presidential Order shall apply to any post in an Office of the Head of a Department. Consequently, in terms of proviso (ii) to Rule 38(c) of the 1996 Rules, the head of the department is competent to transfer a member of a service from the unit of one appointing authority to the unit of another appointing authority. That does not, however, disable the appointing authority to effect transfer as Rule 38(c) of the 1996 Rules itself stipulates that all transfers and postings of a member of State or Subordinate Service shall be made by the appointing authority specified in the special rules. Further, transfer of the petitioners as Assistant Audit Officers from Zone – III to the Directorate at Hyderabad was effected by the Regional Deputy Director only to fill up the posts in the Directorate specifically earmarked for Zone – III. The Regional Deputy Director, as the appointing authority, is competent, both in terms of Rule 10 of the Rules, notified in G.O.Ms.No.113 dated 20.05.2014, and Rule 38(c) of the 1996 Rules to transfer the petitioners to posts in the Directorate at Hyderabad specifically earmarked for officers from Zone - III.

While proviso (ii), to Rule 38(c) of the 1996 Rules, enables the head of the department to transfer, that does not disable the Regional Deputy Director, as the appointing authority, to effect transfer to a post in the head office specifically earmarked for the Zone of which he is the appointing authority. The petitioners have already reported, and have joined at the Directorate at Hyderabad pursuant to the transfer orders.

The orders passed by the Regional Deputy Director, transferring the petitioners who were holding the post of Assistant Audit Officers in Zone – III, to posts specifically earmarked for Zone – III in the Directorate at Hyderabad, cannot be said to be without jurisdiction.

The Writ Petitions fail and are, accordingly, dismissed. Miscellaneous petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

RAMESH RANGANATHAN, J

M.SATYANARAYANA MURTHY, J

Date:25.02.2015

Note:CC by 02.03.2015

bo

Usd