

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No.1558 of 1996

New Delhi, this the 16th day of September, 1997.

Hon'ble Mr. N. Sahu, Member(A)

P.V. Subba Rao,
U.D.C., Department of
Technical Education,
Government of NCT Delhi
C Block, Vikas Bhawan
I.P. Estate
New Delhi - 110 002

...Applicant

(By Advocate : Sh.V.K. Rao)

Versus

Union of India : Through

1. The Secretary
Ministry of Finance
Department of Revenue,
Central Board of Excise & Customs
North Block
New Delhi - 110 001
2. The Chairman
Central Board of Excise & Customs,
Ministry of Finance
Department of Revenue,
North Block
New Delhi- 110 001
3. Collector of Central Excise
Office of the Collector of
Central Excise
Guntur - 522 004

...Respondents

(By Advocate : Shri R.R. Bharti)

ORDER

Hon'ble Mr. N. Sahu, Member(A) -

1. This application is filed against rejection of the applicant's claim for transfer to the office of the Collector of Central Excise, Guntur on compassionate grounds. The application was rejected on the ground that there is no provision in the Recruitment Rules for Group-C post in the respondents' organisation permitting such transfers as claimed by the applicant. There is no provision of law or rule under which he can claim such a transfer from the services of the Govt. of National Capital Territory of Delhi to the office of

16

the Central Excise Commissionerate, Andhra Pradesh.
Recruitment rules for Group-C posts in Central Excise/Customs
Departments do not provide for such transfer.

2. The applicant was appointed as LDC on his qualifying
the Clerks Grade Examination, 1982 conducted by the Staff
Selection Commission and was posted in the office of the
Registrar, Cooperative Societies, New Delhi. He mentions
compelling personal grounds, death of mother, heart attack of
father and distance between his native place and Delhi in
support of his claim for transfer. His request was circulated
in May 1987 by the Ministry of Home Affairs. The Collector of
Central Excise, Guntur initially was willing to accommodate
him but later on rejected the same. There were, no doubt,
stray cases in the past where such transfers were effected on
compassionate grounds as a measure of relaxation of rules.
However, the Ministry of Finance, Department of Revenue issued
a letter dated 26.7.96 categorically stating that " no
request for inter-departmental transfer may be entertained
from ministerial staff working in other ministries/departments
of the Govt. of India. Requests for transfer of employees
working in the Department of Revenue only may be considered
and that too subject to the availability of vacancies as well
as administrative convenience".

3. Transfer is not a matter of right. Having joined as a
Group-C staff, he has no right to claim an inter-departmental
transfer. There is no rule or instruction which obliges the
government to consider the applicant's request. Learned
counsel for the applicant promised to file a copy of the Home

17

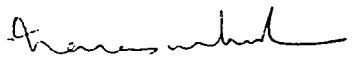
Ministry's circular in this regard on the last date of hearing on 26.8.97 within two days. As no such instruction has been filed, I take it that there are no instructions or circulars obliging the government to consider the applicant's request. In this view of the matter, there is no need to discuss the respondents' contention that this organisation has no jurisdiction.

4. MA 1103/97 was filed for production of relevant file in which the case of Mr Anil Kumar vis-a-vis the applicant was processed. There is no need to summon such a file. Simply because Anil Kumar's case was considered earlier on compassionate grounds, that does not become a binding precedent for considering the applicant's case also. A plea was raised that the instructions issued by the Govt. of India dated 26.7.96 will have only prospective effect from the date of issue and, therefore, cannot be used to deny the applicant's claims. I do not agree with this submission. There is no justification either in law or in equity to consider the applicant's case. He works under the Govt. of NCT of Delhi. Even if the Home Ministry's instructions have direct relevance and binding effect and even though the Govt. of NCT of Delhi cannot be treated as a state, yet there is no justification to direct the Government to consider the applicant's case for transfer. The court can give a direction only in accordance with the conditions of service, guidelines issued for such inter-state transfer or inter-departmental transfer or any binding instructions on the subject. There is no such rule, guideline or instruction to help the applicant's

9

case. This is a matter of discretion of the respondents and the court cannot compel the respondents to consider the applicant's case.

5. In this view of the matter, this application fails and is accordingly dismissed. However, as and when any other case is considered under the relaxation of rules for transfer of an employee from the NCT of Delhi to another department, the applicant's case should also be considered. With these observations, the OA is disposed of - dismissed.


(N. Sahu)
Member (A)

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