

Central Administrative Tribunal  
Principal Bench, N. Delhi

(A)

CA No. 1751/94

New Delhi, this the 28th Day of November, 1994.

HON'BLE SHRI J.P.SHARMA, MEMBER (J)

HON'BLE SHRI S.R.ADIGE, MEMBER (A)

Mrs. Gauri Bholla (Aged 30 years)  
W/o Shri G.D.Bholla,  
Qr.No. 44, Sector IV, R.K.Puram,  
New Delhi.

Applicant

(By advocate Shri K.L.Bhandula)

Versus

Union of India through

1. Secretary,  
Ministry of Finance,  
Department of Revenue,  
Central Secretariat, North Block,  
New Delhi.
2. Central Board of Excise & Customs,  
through Chairman, C.B.E.C.,  
Central Secretariat,  
North Block, New Delhi.
3. Collector of Customs,  
Custom Collectorate, Delhi -  
New Custom House, Gurgaon Road,  
New Delhi.
4. Deputy Collector (P&V),  
Custom & Central Excise - Collectorate,  
Central Revenue Building, I.P.Estate,  
New Delhi. 2.

Respondents

(By advocate Shri V.S.R.Krishna).

JUDGEMENT (ORAL)

HON'BLE SHRI J.P.SHARMA, MEMBER (J)

The applicant is working as Tax Assistant in the  
Collectorate of Customs and Central Excise, New Delhi.

By the order dated 16.12.1993 the competent authority pending and envisaged departmental enquiry for misconduct suspended the applicant as well as during under suspension the head-quarter of the applicant was changed to Central Excise Division, Sonepat which is a part of Delhi Collectorate and she was directed not to leave the headquarter at Sonepat without obtaining the prior permission of the competent authority.

2. The applicant appears to have filed a representation against the aforesaid order and by the order dated 29th July, 1994 rejected the representation/appeal preferred by the applicant.
3. The applicant filed this application on 31st August, 1994 in which she has prayed for a direction to the respondents for quashing the order of 16.12.1993 as well as the order of rejection of her representation dated 29th July, 1994 and also with a direction to the respondents that the headquarter during entire period of suspension of the applicant shall be at New Delhi and that she should be paid the subsistence allowance in terms of the order dated 24.1.1994 and 31.5.1994, further to revoke the applicant's suspension with immediate effect and the chargesheet envisaged against the applicant be issued immediately and the proceedings be got finalized within three months of the issue of chargesheet.
4. A notice was issued to the respondents. However, by the order dated 2nd September, 1994 the Bench granted an interim relief to the applicant that so far as the change

of her headquarter to Sonepat is concerned, by the order dated 16.12.1993 that shall remain stayed till the respondents appear.

5. Shri V.S.R.Krishna appears as a counsel for the respondent and stated that he has filed the reply on 25th November, 1994 but the same is not on the record. A copy thereof has already been given to the applicant's counsel but he has not chosen to file any rejoinder. We heard the learned counsel for the applicant Shri K.L. Bhandula and Shri V.S.R.Krishna counsel for the respondent who has also handed over the copy of counter filed in the Registry, opposing the grant of the reliefs claimed by the applicant in the application.

6. Applicant also moved MA No. 3829/94 for certain further directions, enclosures to this goes to show that subsistence allowance to be paid to the applicant was increased to 75%. However, the contention of the applicant's counsel is that subsistence allowance has since not been paid to the applicant from the date of suspension of the applicant and this MA re-iterated the same for payment of the subsistence allowance and for completion of investigation and finalization of the disciplinary proceedings expeditiously against the applicant.

7. Learned counsel for the applicant has referred to certain humanitarian grounds on which it is pressed that the change of headquarter of the applicant is not ~~accepted~~ justified because that applicant has got compassionate allotment of a quarter on the basis of the father of the applicant having died in hardness while serving as Central Govt. employee.

(F)

Further it is also pressed that the applicant has to care a child of about 3-4 years of age. The husband of the applicant is also located at Delhi and is an earning member from certain private business or engagement with a private enterprises. We have considered all these aspects but we cannot at this stage, visualise as to how the posting of the applicant outside Delhi would be helpful for the conclusion of enquiry against the applicant. The respondent's counsel Shri V.S.R.krishna pointed out that there was a racket of employees and the Superintendent has also been involved and who has been shifted to Ambala. It is stated that the competent authority found that the retention of the applicant at Delhi would not be conducive too in the public interest.

8. We have considered the rival contention but we confined primarily that the headquarter of a suspended employee should be at a place where he was last posted and that where the enquiry is contemplated against the employee. If there is any such urgency and that the said employee can temper with the evidence then he/she can very easily be shifted to another office located at the place from where enquiry is contemplated and only a suspended employee has to remain confined to the headquarter without doing any active functional job. However, we have gone through the reply filed by the respondents' counsel and we are not judicially giving any verdict at this point whether the retention of the applicant at Delhi would be in public interest. We leave the whole matter for the respondents to consider

the applicant's change of headquarter on the ground that she has got a child of tender age basically attached to the mother and that as alleged she has not expected to use anysuch power which can come in the way of finalization of her fair and impartial enquiry. In any case she deserves for sympathetic consideration.

9. The respondents are also bound to pay the subsistance allowance to the applicant from the date she has been put under suspension. Even change of headquarter should not come in the way of payment of subssistance allowance. It is expected that the respondents will pay up-to-date subsistance allowance to the applicant as directed below. Other relief claimed by the applicant are not pressed at this stage but it is also expected that the respondents will try to dispose off the disciplinary proceedings expeditiously in accordance with the CCS(CCA) Rules, 1965 and the various circulars issued by D.O.P. & T.

10. The application is, therefore, disposed of with the following directions:-

(a) That the respondents shall pay the subsistance allowance to the applicant within a period of one month from the date of receipt of this order;

(b) respondents to consider the case of the applicant as a fresh in the light of the representation made by her

and the non-speaking order of rejection of her representation dated 29th July, 1994 is quashed. The competent authority shall decide a fresh speaking order in the light of the observation made in the order above regarding the change of headquarter of the applicant and preferably she may be shifted to any of the other offices of the respondents at Delhi making that headquarter of the applicant during the pendency of the disciplinary proceedings/enquiry against her. In case the applicant is still aggrieved by any of the order passed by the respondents she can be assailed her grievances with liberty, if so advised. Coston the parties.

*Adige*  
(S.R.ADIGE)  
MEMBER(A)

*Sharma*  
(J.P.SHARMA)  
MEMBER(J)

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