

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH: NEW DELHI

O.A.. 944/91

Date of decision: 14.1.92

Sh.N.P.Kaushik

.. Applicant.

Versus

Union of India & other

.. Respondents.

Sh.Jog Singh

.. Counsel for the applicant.

Sh.P.P.Khurana

.. Counsel for the respondents.

J U D G E M E N T (ORAL)

(Delivered by Hon'ble Sh.Justice Ram Pal Singh, V.C.(J))

The applicant was selected by Staff Selection Commission in 1978 for the post of Inspector, Central Excise. The applicant joined Central Excise Collectorate, Chandigarh on 8.1.1979 alongwith other candidates. The Central Board of Excise and Customs decided to re-organize the jurisdiction of Delhi and Chandigarh Collectorates by attaching the areas of State of Haryana to Delhi Collectorate and withdrawing the same from the jurisdiction of Chandigarh Collectorate. It was therefore, decided by the respondents that their allocation of the officers and other staff to Delhi and Chandigarh would be with reference to revised jurisdiction of these Collectorates. In pursuance, therefore, the options of Inspectors and other staff were called for. The applicant contends that he filed his option for Delhi Collectorate on the cut off date, i.e., 15.1.79 whereby he clearly opted for being posted at Delhi Collectorate.

2. The applicant is aggrieved by the orders passed by the respondents (Annexure 1) dated 12.2.91 in para 3 of which it is mentioned that the Board has

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also decided to reject the representations of S/Sh.N.P.Kaushik, A.S.Bora, Hasija, Inspectors as they have exercised the option after the date i.e. 15.1.79..." the Contention of the applicant is that he filed his option on 15.1.79. This verified statement is contained in para 4.4 in the O.A.

3. The respondents on notice appeared and filed their written statement in which they contend that no option, filed by the applicant, was received by the respondents as it is not traceable. The learned counsel for the applicant drew our attention towards Annexure 4 which was filed alongwith the O.A. and is said to be the photo copy of the option, filed by the applicant. On perusal of the document it appears that the applicant has signed the option on 15.1.79 which also contains the receipt date 15.1.79 signed by someone which is not legible. The respondents in Annexure A-1 have admitted that an option was filed by the applicant. They contend that it was after 15.1.79 i.e. the cut off date. The learned counsel for the applicant drew our attention towards Annexure R-6, filed by the respondents. This is a letter addressed by the Additional Collector, Sh.M.S.Badan to Sh.P.Bangar, Dy.Secretary, Government of India, Ministry of Finance, Central Board of Excise and Customs, Delhi. In para 2.1 of this document the following words are written:

"As per record the original option of Sh.N.P.Kaushik, Inspector, is stated to be after 15.1.79, is not traceable"

From these documents and the averments by the applicant in the O.A. it appears that the option was filed by the applicant on the cut off date i.e. 15.1.79. When

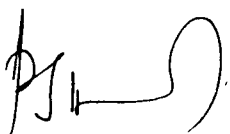
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according to the applicant other Inspectors were directed to be transferred to Delhi the option of the applicant should not have been rejected by the respondents. It has been ^{held} found by us that the option was filed by the applicant on the cut off date i.e. 15.1.79. Thus the applicant alongwith others mentioned in para 2 of Annexure 1 of the application should have been treated in the similar manner as the seven employees in para 2 of Annexure were treated.

4. Learned counsel for the applicant drew our attention to a judgement of this Tribunal in O.A. 784/87 decided on 30.11.88. We have gone through this judgement and in the light of this judgement we are of the view that this O.A. should be allowed. As we are disposing of this O.A. at the admission stage itself after hearing both the counsel, we allow this O.A. and quash Annexure A-1 and direct the respondents to allocate the applicants to the Central Excise and Customs Collectorate, Delhi within a period of three months from the date of the receipt of a copy of this order. As we are not admitting this O.A. and deciding it on the solitary point, the applicant shall be at liberty to take up other consequential reliefs whenever the cause of action arises.

Parties shall bear their own costs.


(P.S. HABEEB MOHAMED)
MEMBER(A)


(RAM PAL SINGH)
VICE CHAIRMAN(J)