

(2)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO.1627 OF 2004

New Delhi, this the 7th day of July, 2004

HON'BLE SHRI R.K. UPADHYAYA, ADMINISTRATIVE MEMBER

Jyothimon Dethan,
S/o Shri N.Dharma Dethan
R/o 34, Kaveri Appartments,
Sec-4, Vaishali, Ghaziabad (U.P.)
Inspector Central Excise and Customs,
Central Excise Ahmedabad - III Commissionerate
Previously posted on deputation as Intelligence
Officer
Narcotics Control Bureau,
Delhi Zonal Unit,
West Block 1, Wing 7,
2nd Floor, R.K. Puram, New Delhi.
(repatriated in Medical Leave through not
handed over charge as still on medical leave)
.....Applicant
(Applicant in person)

Versus

1. Union of India
through its Secretary,
Ministry of Finance, North Block,
New Delhi.
2. Under Secretary to Govt. of India,
Department of Revenue,
Ministry of Finance, North Block,
New Delhi.
3. The Chairman,
Central Board of Excise and Customs,
North Block, New Delhi.
4. The Member (P & V),
Central Board of Excise and Customs,
North Block, New Delhi.
5. Chief Commissioner
Central Excise,
New Central Excise Building,
Panjara Pole, Near Polytechnic,
Ambavadi, Ahmedabad (Gujarat).
6. Chief Commissioner
Central Excise, Delhi Zone,
C.R. Building,
I.T.O., New Delhi.
7. Chief Commissioner
Central Excise and Customs,
Race Course Circle,
Vadodara, Gujarat.Respondents

ORDER (ORAL)

This Original Application has been filed by
Shri Jyothimon Dethan, Inspector of Central Excise &
Customs, Central Excise Ahmedabad - III

Jyothimon Dethan

Commissionerate under Section 19 of the Administrative Tribunals Act, 1985 claiming the following reliefs:-

- "(i) Quash and set aside the order dated 4.6.2004 in compliance of CAT direction in 920/2004 which has no specific direction even on transfer on deputation basis has been given in spite of violation of fundamental right to life and extreme compassionate grounds stated by applicant.
- (ii) Quash and set aside the order dated instruction dated 19.2.2004 of transfer which puts ban on intercommissionerate transfer.
- (iii) Direct the respondents to transfer the applicant in Delhi itself on the facts and circumstances of the case.
- (iv) Direct the Chief Commissioner, Ahmedabad to forward the application of transfer to Chief Commissioner, Delhi in fact and circumstances of the case.
- (v) Any other relief, which this Hon'ble Tribunal may deem fit and proper in the circumstances of the case may also be passed in favour of applicant.
- (vi) Cost of the proceedings be awarded in favour of the applicant and against the respondent."

2. It is stated by the applicant that he joined the respondents department as Inspector of Central Excise and Customs in May, 1994 at Ahmedabad. He was sent on deputation in Narcotics Control Bureau Delhi Zone Unit in February, 1999. On completion of tenure of deputation, he has been repatriated to Ahmedabad on 27.2.2004. The applicant had earlier filed OA 920/2004 which was disposed of as per order dated 13.4.2004 with a direction to the respondents to dispose his pending representation. The respondents were further directed not to compel the applicant to

C. S. Gaur

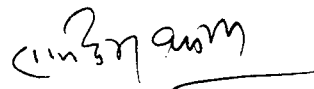
join Ahmedabad Commissionerate unless the representation was decided. It is stated by the applicant that after repatriation order to Ahmedabad, he has been on medical leave.

3. The applicant states that the respondents have passed the impugned order dated 4.6.2004 in compliance to the directions of this Tribunal's order dated 13.4.2004 in OA 920/2004. In the impugned order, it has been stated that the intercommissionerate transfer request of the applicant was examined, but the same was not found to be acceptable in view of the CBEC instructions dated 19.2.2004 on the subject. The applicant further submits that as per observations made in the impugned order dated 4.6.2004 (Annexure A/1), the applicant made a request for transfer on deputation basis to Central Excise, Delhi Commissionerate. Accordingly, he made a representation through proper channel. The request of the applicant for intercommissionerate transfer to Delhi Commissionerate as per his letter dated 3.6.2004 has been rejected as per order dated 24.6.2004. The applicant states that if he joins Gujarat Charge, there is threat to his life. Therefore, this Tribunal should grant the relief as claimed.

4. The facts of this case and contentions raised by the applicant have been considered. This Tribunal by an order dated 13.4.2004 in OA 920/2004 had directed the respondents to consider his

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representation. The impugned order dated 4.6.2004 has been passed in conformity with the directions of this Tribunal. The contention raised by the applicant, if accepted will mean that this Tribunal assumed the role of administration which is not permitted under the law. The limited role of this Tribunal is to see if there is any violation of principles of natural justice or there is violation of any rules. In the present case, the applicant is an Inspector of Central Excise and Customs of Gujarat Cadre. He was on deputation for more than five years in Narcotics Control Bureau, Delhi Zone. He has been repatriated to his parent cadre. There is no violation of principles of natural justice or any rules regarding repatriation. His next plea is that he should be posted to the charge of Delhi Commissionerate of Central Excise and Customs. This clearly falls in the domain of the Administration. It is for the Administration to decide as to who should be posted where. The applicant is admittedly in the employment of Gujarat Cadre. Therefore, he has to establish violation of any rules while considering his request for intercommissionerate change. No such violation has been pointed out. Therefore, there appears to be no scope for interference in the orders of the respondents. The present Original Application being devoid of any merit is dismissed at the admission stage without issue of notice to the respondent. No costs.



(R.K. UPADHYAYA)
ADMINISTRATIVE MEMBER

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