

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH

ALLAHABAD.

Allahabad this the 26th day of February 1997

Original Application no. 984 of 1996

Hon'ble Mr. S. Dayal, Administrative Member

V.K. Pandey, S./o Sri R.D. Pandey, R.O.
R/o 33 M.G. Marg,
Allahabad.

... Applicant

C/A Sri S. Chandra

Versus

1. Union of India through the Secretary, Central Board of Excise and Customs North Block, New Delhi.
2. Commissioner, Central Excise, Allahabad.
3. Deputy Commissioner (P&V) Central Excise, Allahabad.

... Respondents

C/R Sri

O R D E R

Hon'ble Mr. S. Dayal, Member-A

This is an application under section 19 of the
Administrative Tribunals Act, 1985.



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2. The applicant has sought following reliefs in the application:-

- i. Setting aside of order dated 08.04.96 transferring the applicant from Gorakhpur to Robertsgung.
- ii. A direction to the respondents not to interfere with the working of the applicant at Gorakhpur
- iii. Award to cost of the application.

3. The facts as stated by the applicants are that the respondents has passed order dated 08.04.96 transferring the applicant, who was an Inspector of Central Excise at Gorakhpur, to Robertsgung. The applicant earlier on was working as Inspector of Customs at Nawagarh in Siddrath Nagar and was transferred from there to Gorakhpur in 1995. The applicants states that in June 1995, on his transfer to Chunai, he made a representation for stay of his transfer for three months which was allowed and an extention of one month was also allowed. He again made a representation for stay of his transfer upto March 1996 which was again allowed. In March he made an application to stay his transfer upto June 1996 which was allowed. But subsequently the stay was revoked by order dated 08.04.96 which is the impugned order in this case. The applicant also refers to an order of this Tribunal dated 2.9.96 directing the applicant to make a representation to the respondents. The applicant made a representation to respondent no. 2

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but it has been rejected by respondent no. 3 who has no jurisdiction to pass an order on representation.

4. It is clear from the facts of the case that the respondents showed maximum indulgence when the applicant sought stay of transfer for certain durations. The applicant, however, kept on seeking postponements. He was ultimately asked to join at new place of posting by cancellation of ~~earlier~~ stay of transfer from April to June because academic session was ~~over~~ over and he could seek admission for the new session at his new place of posting.

5. The applicant has ~~been~~ referred to order of this Tribunal in OA no. 455/96 against his transfer. The Court had observed in its order that there was merit in the case but had permitted to applicant to make representation for his retention upto ~~June~~ open and it was left to the respondents to consider the representation and dispose of within a week. The applicant made a representation dated 3.5.96 and the reply of the respondents to it dated 10.5.96 clearly shows that the applicant was transferred from Customs Nawgarh to Central Excise Robertsgung on ~~0600~~ 21.6.95. But later, on his request, he was posted at Gorakhpur only upto March 1996. The applicant has filed the application on 13.9.96. The grounds of lack of public interest, non completion of tenure of 4 years violation of guidelines and childrens educations as well as promissory estoppel given by the applicant in filing this application against transfer are not tenable in

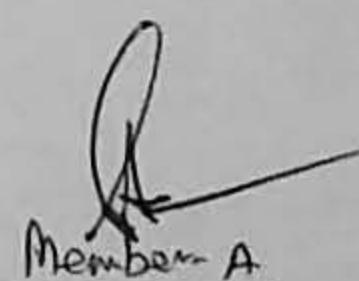
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this case, ~~in~~ the light of Judgments of the Apex Court to the effect that Courts may not interfere in the cases of transfer unless violation of statutory guidelines or malice is involved.

6. The applicants counsel has raised the question of jurisdiction of Dy. Commissioner in passing an order on his representation. The annexure no. 6 of the OA which places the copy of the letter of the Dy commissioner in this case shows that the representation was rejected by the Commissioner who had observed that applicants act of making representation was ~~nothing~~ ^{but} ~~that~~ tactics ~~adopted~~ adopted by the applicant to prolong stay at Central Excise Gorakhpur on some ^{pretext} ~~retakes~~ or other

7. Thus the application clearly lacks merit and is dismissed in limine.

8. There shall be no order as to costs.



Member A