

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No. 040/00130/2021

Date of order: 25.05.2021

**THE HON'BLE SMT. MANJULA DAS, JUDICIAL MEMBER
THE HON'BLE MR.N.NEIHSIAL, ADMINISTRATIVE MEMBER**

Shri Sabit Shankar Das Gupta
Son of Late Hriday Ranjan Dasgupta
Superintendent, Central Goods & Service Tax
Office of the Commissioner, CGST, Guwahati
GST Bhawan, Kedar Road, Pin – 781001.

.....Applicant



By advocate(s): Sri A. Ahmed &
Smt. D. Goswami

-VERSUS-

1. The Union of India
Represented by the Secretary to the Government of India, Ministry of Finance Department of Revenue, North Block New Delhi, Pin – 110001.
2. The Chief Commissioner
Goods and Services Tax & Customs Guwahati Zone, Ministry of Finance Department of Revenue, GST Bhawan, 5th Floor, Kedar Road, Guwahati, Pin - 781001
3. The Additional Commissioner (P&V)
Office of the Commissioner Central GST Commissionrate, Guwahati, Kedar Road Guwahati, Pin -781001.

.....Respondents

By advocate: Sri R. Hazarika, Addl. CGSC

ORDER(ORAL)

MANJULA DAS, JUDICIAL MEMBER:

This matter has been taken up through video conferencing. This O.A. has been preferred by the applicant under section 19 of the Administrative Tribunal Act 1985 seeking the following reliefs:



“8.1 To set aside and quash the impugned Transfer order bearing C No.II(3)1/ET/CCO/GHY/2021/627-765 under Establishment Order No 03/2021 dated 03.02.2021 in case of the Applicant.

8.2 To direct the Respondents to recall the Relieve order bearing No. 23/2021 dated 20.04.2021 in case of the applicant.

8.3 To direct the Respondents particularly Respondent No 2 to allow the Applicant to continue in his earlier post or at any available vacant post under the Respondents in Guwahati till his Voluntary Retirement notice dated 01.03.2021 is finally decided by the Respondents within the time frame as specified under Rule 48-A of Civil Services (Pension) Rules 1972.

8.4 To pay the cost of the case to the Applicant.

8.5 Any other relief(s) that may be entitled to the Applicant.”

2. Facts of the case are that the applicant has joined as Inspector of Central Excise on 16.08.1995 at Shillong under the Ministry of Finance, Department of Revenue, Government of India. Presently, he is working as Superintendent in the Office of the Commissioner, Central Goods & Service Tax, Guwahati and completed more than 25 years of service.

Vide order dated 03.02.2021 issued by Joint Commissioner in the Office of the Chief Commissioner, Goods and Service Tax & Customs, Guwahati Zone, Guwahati, the applicant was transferred from Guwahati GST Commissionerate to Agartala GST Commissionerate. According to the applicant, he has serious personal difficulties for which he is unable to join his new place of posting at Agartala. Accordingly, the applicant had submitted an application for voluntary retirement on 01.03.2021 on the ground of his personal difficulty. However, during the pendency of the application for voluntary retirement, the respondent No. 3 has issued relieve order dated 20.04.2021 for his joining at his new place of posting at Agartala. Hence, this Original Application before this Tribunal.

3. Sri A. Ahmed, learned counsel appearing on behalf of the applicant submitted that during the pendency of the application for voluntary retirement and this O.A. before this Tribunal, the applicant had submitted a representation dated 21.05.2021 to consider his prayer to attach him in the Head Office Guwahati or any vacant place at Guwahati under Guwahati GST Commissionerate till finalization of his application for voluntary retirement. Learned counsel further submitted that the relieve order of the applicant dated





20.04.2021 has been issued by the respondents in the midst of alarming rise of most hazardous 2nd wave of Covid-19 epidemic which has been spreading across the country including at his new place of posting at Agartala wherein Lockdown and Curfew has been imposed by the Local Authority for this deadly Covid-19. According to Sri Ahmed, in this pandemic situation, it is not possible for him to move to his new place of posting at Agartala. Accordingly, Sri Ahmed prayed that the respondents may be directed to consider his pending representation dated 21.05.2021 by which the applicant prayed for his retention at Guwahati till finalization of his option for voluntary retirement.

4. On the other hand, Sri R. Hazarika, learned Addl. CGSC appearing on behalf of the respondents submitted that the applicant has already been relieved from Guwahati GST Commissionrate vide order dated 20.04.2021 and he has approached before this Tribunal after issuance of his relieve order.

5. We have heard learned counsel for the parties, perused the O.A. and materials placed before us. As per Rule 48(A) of Civil Services (Pension) Rules 1972, an application for

voluntary retirement has to be decided within three months.

The said relevant Rule is extracted below:

"48-A. Retirement on completion of 20 years' qualifying service

(1) At any time after a Government servant has completed twenty years' qualifying service, he may, by giving notice of not less than three months in writing to the Appointing Authority, retire from service.

Provided that this sub-rule shall not apply to a Government servant, including scientist or technical expert who is—

(i) on assignments under the Indian Technical and Economic Co-operation (ITEC) Programme of the ministry of External Affairs and other aid programmes

(ii) posted abroad in foreign based offices of the Ministries/Departments,

(iii) on a specific contract assignment to a foreign Government, unless, after having been transferred to India, he has resumed the charge of the post in India and served for a period of not less than one year.

(2) The notice of voluntary retirement given under sub-rule (1) shall require acceptance by the appointing authority:

Provided that where the appointing authority does not refuse to grant the permission for retirement before the expiry of the period specified in the said notice, the retirement shall become effective from the date of expiry of the said period."



6. It is noted that by now the applicant has already completed 25 years of service under the respondent department. Having completed more than 25 years of qualifying service the applicant become eligible for applying voluntary retirement. As per the Rule 48(A) of Civil Services (Pension) Rules, 1972, the application of the applicant for voluntary retirement has to be considered within a period three months which will be expiring on 01.06.2021. In view of that, without going into merit of the case as well as without issuing notice upon the respondents, we deem it fit and proper to direct the respondent authorities to decide and finalize the application for voluntary retirement dated 01.03.2021 along with the representation dated 21.05.2021 within the stipulated time in accordance with law. Ordered accordingly.

7. With the above directions, O.A. stands disposed of accordingly at the admission stage. No order as to costs.

**(NEKKHOMANG NEIHSIAL)
ADMINISTRATIVE MEMBER**

**(MANJULA DAS)
JUDICIAL MEMBER**

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