

**CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH**

OA/531/93

Date of Decision: 24-09-99

N.I. Kuruvilla

Petitioner (s)

Mr . J.J. Yagnik

:Advocate for the petitioner(s)

Versus

Union of India & Ors.

: Respondent(s)

Mr. B.N. Doctor

:Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. V. Ramakrishnan

: Vice Chairman

The Hon'ble Mr. P.C. Kannan

: Member (J)

JUDGMENT

1. Whether Reporters of Local papers may be allowed to see the judgment? ✓
2. To be referred to the Reporter or not? ✓
3. Whether their Lordships wish to see the fair copy of the Judgment?
4. Whether it needs to be circulated to other Benches of the Tribunal? ✓

N.I. Kuruvilla,
Tradesman MST-3,
Mohamed Building,
Room No. 7, Bhairav Nagar,
Bhestan, Surat.

-- Applicant --

(Advocate : Mr. J.J. Yagnik)

Versus

1. Union of India
(Through the Joint Director
Marine, Customs Marine Headquarters,
Hotel Waldorf, 2nd Floor,
16, Arthan Bunder Road,
Colaba, Mumbai : 400 005.
2. The Deputy Collector (P & E)
Central Excise & Customs
Vadodara.
3. The Collector of Customs,
(Preventive) Customs House,
Opp. Gujarat High Court,
Ahmedabad.

-- Respondents --

(Advocate : Mr. B.N. Doctor)

ORAL ORDER
O.A 531 of 1993

Date : 24.09.99

Per Hon'ble Shri. V. Ramakrishnan : Vice Chairman.

Mr. Yagnik is not present. He has not been present on number of occasions
and on the last occasion, it was adjourned to today to give one more chance to the

applicant's counsel. In his absence, we proceed to dispose of the O.A on the basis of the materials on record.

2. The applicant was appointed as a Tradesman in November'76 under the Directorate Marine Customs, Marine Headquarters, Bombay and was posted at Magdalla, Surat. His services were initially terminated by issuance of notice dated 08.01.87 under Rule 5 (1) of the C.C.S (Temporary Service) Rules, 1965. He had challenged the order before the Tribunal in O.A 216 of 87. The Tribunal directed his reinstatement and also allowed back-wages from the date of termination. Pursuant to this Tribunal's order, the applicant was reinstated by the Collector of Customs, Preventive, Ahmedabad vide letter dated 01.04.93 in the grade of Tradesman with consequential benefits. This order however, posted him to Okha Customs Division, Jamnagar on reinstatement. The applicant has challenged his posting to Okha Customs Division in the present O.A.

3. We find from the reply statement that the Directorate of Marine, Mumbai had, the administrative as well as an operational control over the marine staff posted and working at all the stations in the State of Gujarat, both when the applicant was first appointed as well as at the time of his transfer to Okha. Further, both the Magdalla and Okha are under the territorial jurisdiction of the Customs (Preventive) Collectorate, Ahmedabad. In other words, the applicant has a transfer liability to Okha Division where he was posted. The applicant in his rejoinder has initially contended that the respondents did not apply their mind and that the posting to Okha was done to harass him. He has however not shown any rules or instructions to

rebut the respondents stand that he has a transfer liability to Okha. We also find from the directions of the Tribunal which are reproduced in the O.A that there was no specific direction that the applicant should be re-posted on his last station. The Tribunal only decided that he should be reinstated and given back-wages. The respondents have reinstated him and posted him to Okha Division, which is under the Customs authority. It is now well settled that the Tribunal cannot interfere with the transfer orders in the normal course excepting when the same is done on malafide consideration or in violation of any statutory rules. The applicant has not alleged malafide against respondents nor has he impleaded any one by name, but has merely stated that the transfer was done to harass him. He has also not shown any statutory rules, which would stand in the way of his transfer.

4. In the facts and circumstances of the case, we hold that it is not a fit case to interfere with the transfer order. The O.A is therefore dismissed with no orders as to costs.

P.C. Kannan
(P.C. Kannan)
Member (J)

V. Ramakrishnan
(V. Ramakrishnan)
Vice Chairman

mb