

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM

O. A. No.  
~~XXXXXX~~

453

1990

DATE OF DECISION 16.7.90

L.Somalal Applicant (s)

Mr. M.R.Rajendran Nair Advocate for the Applicant (s)

Versus

Union of India (Secretary,  
Ministry of Finance) and  
another. Respondent (s)

Mr.C.Kochunni Nair Advocate for the Respondent (s)

CORAM:

The Hon'ble Mr. S.P.Mukerji, Vice Chairman

The Hon'ble Mr. A.V.Haridasan, Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *Yes*
3. Whether their Lordships wish to see the fair copy of the Judgement? *Yes*
4. To be circulated to all Benches of the Tribunal? *Yes*

JUDGEMENT

(Shri S.P.Mukerji, Vice Chairman)

The applicant who has been working as Inspector of Central Excise under the Collector of Central Excise and Customs, Cochin, in his application dated 6.6.90 filed under section 19 of the Administrative Tribunals Act before this Tribunal, has prayed that he should be declared to be entitled to be considered for posting at <sup>airport</sup> Air Customs at Trivandrum in preference to his juniors in spite of the fact that he had served at the Trivandrum Airport for 4 months and 13 days in 1981. Posting at

Air Customs Pool is generally for 2 years but the applicant was transferred from the Airport <sup>promoterly</sup> after a period of little over 4 months in 1981 on administrative grounds.

According to the respondents, the applicant was considered <sup>for posting at the Airport</sup> in 1989 on the principle of seniority-cum-suitability but was not found fit for posting at Trivandrum Airport.

Again in 1990, he along with a number of other Inspectors who had expressed their willingness for posting at Trivandrum Airport, were called for interview for selection on

11.5.90 in accordance with the notice dated 2.5.90 at

Annexure-II. The interview was postponed and another

notice was issued on 5.6.90 calling other Inspectors for

interview on 11.6.90 but the applicant was not included

in that list. On this, he moved this Tribunal and this

Tribunal vide its interim order dated 7.6.90 directed the

respondents that the applicant also should be provisionally

interviewed on 11.6.90. <sup>on 11.6.90</sup> Instead of holding the interview <sup>and</sup>

and considering the applicant the respondents have been

posting Inspectors junior to the applicant to the

International Airport at Trivandrum. <sup>without any interview.</sup> In the reply statement <sup>and</sup>

the respondents have stated that since the applicant had

been transferred from Trivandrum Airport in 1981 on

administrative grounds, he is not being considered again

for posting at the Airport. They have argued that the

direction of the Tribunal in O.A.722/89 and 731/89 to

consider even those <sup>Class D employees</sup> who had got earlier posting at <sup>and</sup>

Trivandrum Airport, for a six month posting again, does

not apply <sup>to</sup> this case as those cases were related to <sup>and</sup>

Group D officers and not of Inspectors.

2. We have heard the learned counsel for both the parties and gone through the documents carefully.

In the judgement of the Tribunal dated 15.12.89 in OA 722/89 and 731/89, the following direction was given:

"In balance of equity and justice and without prejudice to the rights of the respondents to adopt any other method of posting of staff at Trivandrum Airport, I feel that so long as the rotational system of posting is in force, those who had been already posted at Trivandrum Airport prior to 1985 before the new scheme was introduced, should also be given a chance of rotational posting, but only for six months and not one year which would be available to those who had never been posted to the Airport. I accordingly dispose of these two applications with the direction that the applicants also should be considered on the basis of seniority-cum-fitness for being posted at the Trivandrum Airport under the rotational posting policy, but for a period of six months, instead of one year available to others,"


3. Since enhancement of reward from 10% to 20% of the value of seizure applies equally between a Group D officer and an Inspector, we see no reason why the ratio followed in the aforesaid cases should not be applied <sup>to</sup> the case before us also. Since the applicant had been posted at Trivandrum Airport 9 years ago and that also for a short period of 4 months 13 days, he should not be permanently disqualified for even being considered for a 6 months' posting at Trivandrum Airport. The fact that the respondents themselves had considered him in 1989 and <sup>again</sup> called him for interview in 1990 goes to show that the disqualification on the ground of his earlier transfer out of Trivandrum

Airport on administrative grounds is not very material.

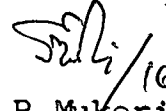
4. In the <sup>facts and</sup> ~~circumstances~~, we allow this application <sub>✓</sub> to the extent of directing the respondents to consider the applicant also for a limited posting of 6 months at the Trivandrum Airport on the basis of his seniority and suitability in the same manner as his juniors like M/s C.V.George, A.D.Joseph and Koruth Jacob have been selected and deputed to the International Airport.

Action on the above lines should be completed within <sup>of</sup> a period ~~one~~ month from the date of communication of this <sub>✓</sub> order.

There will be no order as to costs.

  
(A.V. Haridasan)  
Judicial Member

16/7/90

  
(S.P. Mukerji)  
Vice Chairman

16.7.90

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM

R.A.No.91/90

in O.A. No. 453/90

189

~~XXXXXX~~

DATE OF DECISION 31.8.90

L. Somalal Applicant (s)

Mr. MR Rajendran Nair Advocate for the Applicant (s)

Versus

Secretary, Ministry of Respondent (s)  
Finance and another

Mr. C.Kochunni Nair, ASC Advocate for the Respondent (s)

CORAM:

The Hon'ble Mr. S.P.Mukerji, Vice Chairman

The Hon'ble Mr. A.V.Haridasan, Judicial Member

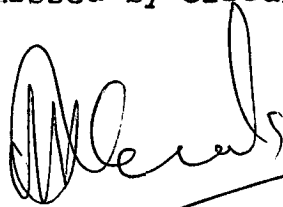
1. Whether Reporters of local papers may be allowed to see the Judgement? ☒
2. To be referred to the Reporter or not? ☒
3. Whether their Lordships wish to see the fair copy of the Judgement? ☒
4. To be circulated to all Benches of the Tribunal? ☒

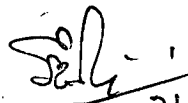
JUDGEMENT

(Hon'ble Mr.S.P.Mukerji, Vice Chairman)

We have gone through the Review Application and connected documents. A change in the quantum of relief cannot be claimed as correcting an error on the face of record through review. The ratio in the judgment was the adoption of the principle that those who had been already posted at the Trivandrum Airport before the new scheme was introduced, should be considered for posting again for a period of six months. This period is related to the increase in the reward and not to the period of earlier posting. If a different view is taken that will be a matter of

appeal and not of review which is admissible only on the basis of an error on face of record or new material. Hence we see no ground to admit the Review Application which is dismissed by circulation.

  
31.8.90  
(A.V. Haridasan)  
Judicial Member

  
31.8.90  
(S.P. Mukerji)  
Vice Chairman

31.8.90

Ksn.