

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No. 461/90
~~XXXXXX~~

~~189~~

DATE OF DECISION 22-11-1991

T.C. John and 9 others Applicant (s)

~~M/s K. Ramakumar and M/s. V.R. Remachandran Nair & Roy Abraham~~ Advocate for the Applicant (s)
with him Versus

Union of India rep. by
Secretary, Ministry of Finance Respondent (s)
New Delhi and 5 others

Mr. George Joseph for R-1 to 5 Advocate for the Respondent (s)
Mr. M.R. Rajendran Nair for R-6

CORAM :

The Hon'ble Mr. N.V. Krishnan, Member (Administrative)

The Hon'ble Mr. N. Dharmadan, Member (Judicial)

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *No*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. To be circulated to all Benches of the Tribunal? *No*

JUDGEMENT

N. Dharmadan, M(J)

The applicants are working as Drivers in Customs House, Cochin-9. They have filed this application with the following reliefs:

"..i) To direct the respondents to include the applicants also for service in the Trivandrum Air Customs by including them in the Air Customs Pool.

ii) to declare that the denial of the opportunities for service in the Air Customs Pool to the category of Drivers alone of the Customs Cochin is violative of Article 14 and 16 of the Constitution of India. and"

.... /

2. According to the applicants the posting of Drivers in the Air Customs, Trivandrum is done on the basis of the orders issued by the Government of India. The orders do not include the posts of Drivers. Air Customs Pool includes ^hSuperintendents, Appraisers, Examiners, Preventive Officers, Sepoys etc. The post of Driver is yet to be included in the Air Customs Pool, Trivandrum. But there are four vacancies of Drivers attached to Air Customs, Trivandrum. They are now manned by Drivers from Central Excise Dept. and nobody from Customs Dept. is taken as Driver to fill up the vacancies. According to the applicants this is discriminatory and violative of Article 14 and 16 of the Constitution of India. The applicants have taken up the matter with the authorities by filing Annexure-A representation in which they have highlighted the reward aspect and the right and eligibility of the applicants to get shares thereof. But this has been rejected by Annexure-C order dated 3-5-90. In that order it is stated that there is no separate post of Driver in the Air Customs Pool Trivandrum, ^{and h} hence the decision cited by the applicants cannot be applied for granting reliefs

3. The respondents 1 to 3, 4 and 5 filed separate reply statements. The stand of the respondents is that no post of Driver has been sanctioned for Air

Customs Pool, Trivandrum and it can be seen from the letter of Ministry of Finance No.A.11019/43/85 dated 24-1-86. The Collector of Central Excise has diverted certain posts from other formations in the Collectorate to Air Pool as per Annexure R-1 and analogy of Sepoys' case stated in the judgment in OA 19/88 would not apply in this case. They however, submitted that no post of Driver is available at present at Trivandrum Air Customs so as to enable the respondents for considering the absorption of the applicants. The applicants have filed rejoinder and stated that at present 3 Drivers are working in the Air Customs, Trivandrum and they have been taken from Excise Dept. When the 4th post of Driver became available the claim of the applicant for getting a share of appointment of Drivers ^{post 4} from Customs Dept. though required consideration was not examined or considered within 25% quota from Customs in the interest of justice and equitable distribution of job among Drivers from Excise and Customs Depts.

5. We have heard the arguments and considered the documents. Posting of officers in the Air Customs Trivandrum and preparation of lists and pool of officers to be engaged in Air Customs, Trivandrum is exclusively within the purview of the Government of India. It is in fact a policy matter over which this Tribunal would not normally interfere ^{if this action is taken according to law. 4} There is no compelling circumstances in this case warranting invoking of our indulgence

to go into the decisions of the Govt in the matter of preparation of list of Air Customs Pool of officers working in Trivandrum. The Govt. have not so far decided the inclusion of post of Driver along with other posts of Superintendents, Appraisers, Examiners *etc.* ^u The applicants' claim that the post of Driver should also be included along with other posts. As indicated above this is a matter which the Government of India will have to consider and decide. The applicants ^u *show reasons for including the post of Driver also in Air Customs Pool* urged ^u The question of inclusion of post of Driver along with other officers for posting in the Air Customs, Trivandrum is a matter which requires consideration by the concerned authorities of the Govt. of India, if the applicants ^u *submit* ~~make~~ a proper representation before the Govt with all materials.

6. Under these circumstances, we find that this application can be disposed of with ~~a~~ directions ^u in the interest of justice. We, therefore, direct the applicants to submit a detailed representation before the 1st respondent either jointly or separately with all necessary particulars for including the post of ~~Driver~~ also along with other officers in the Air Customs Pool for posting the applicants also in the Air Customs Pool, Trivandrum. This shall be done by the applicant within 2 weeks from the date of communication of this judgment.

7. If such ~~a~~ representation(s) are filed

as indicated above by the applicants the first respondent shall consider the grievance of the applicants, and dispose of the same in accordance with law within a period of 2 months from the date of receipt of the same.

8. The applicants are at liberty to move appropriate forum, if so advised, on the outcome of the representation.

9. The Original Application is disposed of on the above lines. No costs.



(N. Dharmadan)
Member(Judicial)

22. 11. 91.



(N.V. Krishnan)
Member(Administrative)


22-11-91

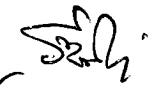
CEP. 46/92

05/6/92

Mr. Ramachandran Nair.
Mr. George Joseph JSSC.
None for R.6.

The learned Counsel for the petitioner
wishes to withdraw the CEP. Prayer is allowed.
The CEP is disposed of as withdrawn.


(A.V. Haridasan)
J.M. 10.6.92


(S.P. Mankarji)
V.C.

P.O. issued.