

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 49 of 2005

Thursday, this the 24th day of February, 2005

CORAM

HON'BLE MR. K.V. SACHIDANANDAN, JUDICIAL MEMBER
HON'BLE MR. H.P. DAS, ADMINISTRATIVE MEMBER

1. I.S. Antony Cleetus,
Cashier,
Central Excise Divisional Office,
Service Tax Division, Central Excise Bhavan,
Kathrikadavu,
Cochin – 17 **Applicant**

[By Advocate Shri C.S.G. Nair]

Versus

1. The Commissioner of Central Excise & Customs,
Central Revenue Buildings,
IS Press Road,
Cochin – 682 018

2. The Additional Commissioner of Central Excise,
Central Revenue Buildings,
IS Press Road,
Cochin – 682 018

3. The Deputy Commissioner of Central Excise,
Service Tax Division, Central Excise Bhavan,
Kathrikadavu,
Cochin – 17

4. Sri Monson Varghese,
Tax Assistant,
Central Excise Division II, Central Excise Bhavan,
Kathrikadavu,
Cochin – 17

5. Union of India,
Represented by Secretary,
Department of Revenue, North Block,
New Delhi. **Respondents**

[By Advocate Shri T.P.M. Ibrahim Khan, SCGSC (R1, R2, R3 & R5)]

The application having been heard on 24-2-2005, the Tribunal on the same day delivered the following:

ORDER

HON'BLE MR. K.V. SACHIDANANDAN, JUDICIAL MEMBER

The applicant was working as Cashier in the Service Tax Division of Central Excise at Ernakulam since August 2003. It is averred that he is entitled for the cash handling allowance of Rs.200/- per month and the posting as Cashier is not for a specified period. Those posted as Cashier continue to do the same work till they are promoted or removed on charges of misappropriation. The applicant has been changed from the post of Cashier without assigning any reason. There is no misappropriation or mistake in the duty as Cashier by the applicant. The transfer is not in public interest and therefore, the applicant has filed this application seeking the following reliefs:-

"i) To quash Annexure A7 to the extent it relates to the 4th respondent.

ii) To direct the 2nd respondent to allow the applicant to continue to work as Cashier in the 3rd respondent's Office.

iii) Grant such other relief or reliefs that may be urged at the time of hearing or that this Hon'ble Tribunal may deem fit to be just and proper.

iv) To grant cost of this OA."

2. Learned counsel for the official respondents has filed a statement denying the claim of the applicant. The applicant has filed a rejoinder.

3. It is seen from Annexure R1, the Rules regarding appointment of Cashiers, produced along with the counsel's statement that it will be within the discretion of the Head of the Department to appoint LDC or UDC to perform the duties of Cashiers. In the rejoinder, the applicant has taken a specific plea that

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the head of the Department, i.e. the 1st respondent, has not removed him from the post of Cashier and therefore the transfer order is not in tune with the true spirit of Annexure R1 rules.

4. When the matter came up for hearing, learned counsel for the applicant submitted that the applicant will be satisfied if he is permitted to make a representation to the 1st respondent and the 1st respondent is directed to consider and dispose of the same within a time frame. Learned counsel for the official respondents submitted that he has no objection in adopting such a course of action.

5. In the interest of justice, the applicant is permitted to make a comprehensive representation to the 1st respondent within two weeks from today and the 1st respondent is directed to consider such representation, if received, in the light of the rules and regulations on the subject and pass appropriate orders thereon within a period of one month from the date of receipt of the same.

6. The Original Application is disposed of as above at the admission stage itself. In the circumstances, there is no order as to costs.

Thursday, this the 24th day of February, 2005

H.P. DAS
ADMINISTRATIVE MEMBER

K.V. SACHIDANANDAN
JUDICIAL MEMBER

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