

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No. 549/91

T. A. No. ~~199~~

~~199~~

DATE OF DECISION 15.6.1992

S. Chellappan Nair, Applicant (s)
Air Customs Officer, Tvm.

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

Versus

The Collector of Central Respondent (s)
Excise, Kochi-18 and 2 ors.

Mr. P Sankarankutty Nair, Advocate for the Respondent (s)
ACGSC.

CORAM :

The Hon'ble Mr. PS Habeeb Mohamed Administrative Member

The Hon'ble Mr. N Dharmadan 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? 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

SHRI N DHARMADAN, JUDICIAL MEMBER

Applicant is aggrieved by the non-consideration of his case for a transfer and posting at Air Customs Pool Trivandrum for completing the normal tenure of 2 years as granted to other Inspectors of Central Excise.

Applicant is at present working as Inspector of Central Excise. On the basis of his request he was transferred to Air Customs, Trivandrum as per Annexure A-II Order No.29/88 dated 27.4.88. While working at Trivandrum ⁱⁿ Air Customs ⁱⁿ on 4.5.1989 the applicant was involved in case of seizure and recovery of 10 gold biscuits from one Shri Ali Pillai Abdul Khader of Pathanamthitta. This action of the applicant was highly appreciated by the Departmental Authorities.

But, the persons involved in the carriage of illegal article threatened the applicant with dire consequences. Since the applicant apprehended danger he made a request to get a transfer from Air Customs to some other places. Accordingly, the applicant was transferred as per order No. 41/89 dated 25.4.1989 to Sulthan Batheri. Now since the applicant is out of danger and he has no apprehension of danger to life from any persons involved in the seizure and recovery of gold biscuits, he filed Annexure IV representation for getting a posting at Air Customs, Trivandrum, so as to enable him to complete the full tenure at Trivandrum. Under these circumstances, he filed an application with the following prayers.

- " i) To set aside Annexure--I
- ii) To direct the respondents to post the applicant to Air Customs Pool, Trivandrum, for completing the tenure of 2 years after considering his case on merits and in accordance with law.
- iii) Grant such other reliefs as may be prayed for and the Tribunal may deem fit to grant, and
- iv) Grant the cost of this Original Application."

3. The respondents filed a reply statement and stated that the smuggler who alleged to have threatened the life of the applicant is not under preventive detention and as he has obtained a stay against his detention from the Calcutta High Court, the threat to life of the applicant is even now existing and it may not be proper under these circumstances to post the applicant to Air Customs, Trivandrum. It is further stated that

the representation already filed by the applicant was considered and rejected on the basis of the directions of this Tribunal in DA-1117/90. The applicant filed a rejoinder denying all the statements in the reply affidavit.

4. At the time when the application came up for final hearing, the learned counsel for the applicant submitted that his client will be satisfied if this application is disposed of with directions to the respondents to consider his claim for posting to Air Customs so as to enable him to complete the full term. Even though, the learned counsel for the respondents submitted that no fresh consideration of the applicant's request is called for in the light of the decision already taken by the Department, we are satisfied that this application can be disposed of accepting the request of the learned counsel for the applicant that his claim for posting at Air Customs should be considered over again in the light of his statements in the rejoinder that he has at present no apprehension from anybody and he has full confidence to work at Air Customs if he is considered for a posting in that place. However, this is a matter which requires consideration by the Ist respondent.

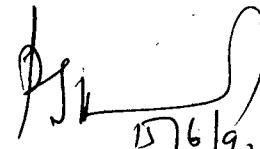
5. Accordingly, we direct the Ist respondent to consider his claim for a further posting at Air Customs

2

Trivandrum and disposed of the same in accordance with law, if he files such a detailed representation within a period of 2 weeks from the date of the receipt of the copy of this judgment. The respondents are directed to dispose of the representation of the applicant within 2 months from the date of the receipt of the same. The application is disposed of as above, but without any order as to costs.



(N DHARMADAN)
JUDICIAL MEMBER



(PS HABEEB MOHAMED)
ADMINISTRATIVE MEMBER

15.6.1992

①

C.P. 115792 in on 5/6/91

(13)

PSHM&WD

Mr. M.R.A. Nani

Seal by Proxy.

At the request of learned
counsel for respondent post for trial
hearing on 3-9-92

↓
(ND)
2/7/8.

↓
(PSHM)
2/7/8.

PSHM&WD

⑤

Mr. M.R.A. Nani

Mr. George Thanikai by Proxy

Learned counsel for the respondent
seeks some time to file reply to the
C.P. Post on 25/9/92.

↓
(ND)

↓
PSHM

3/9/92

PSHM&WD

⑥

Mr. M.R.A. Nani

Mr. George C. Thanikai Seal by Proxy

At the request of seal post for 7-10-92

↓
(ND)
2/7/9

↓
(PSHM)
2/7/9

POSITION ANSWER

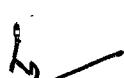
(31)

Mr. M.R. Rajendran Nair for applicat.

Mr. George CP Tharakam for S.C.S.C.

The learned Counsel for the respondents has not filed any statement as directed earlier. He may do so within 2 weeks. The case is posted on 23/10/92.




ND
2/10

POSITION
2/10

23.10.92

(36)

Mr. M.R. Rajendran Nair
Mr. Poly Mathai for S.C.S.C.
List for further directions

on 5.11.92.


ND
23/10


SDM
23/10

Mr. M.R. Rajendran Nair by Pro.
S.C.S.C. by Pro.

At the request of learned
Counsel for petitioner Post on 19.11.92


(ND)
3/11


(POSITION)
3/11

Statement by
Respondent filed
on 2.11.92.

(P)

CCP. 115192 u.

OA 549/91

8pm AND

Mr. M. Nair by Adv.

SCSC by Adv.

At the request of learned counsel
for petitioner 1st for further direction on the
CCP on 3.12.92

Mr.

Adv
(Adv)
19/11

SCSC
(SCSC)
19/11

8pm AND

Mr. M. Nair

24.

SCSC by Adv

Heard learned counsel for both parties. The learned counsel for the original respondents has filed statement indicating clearly that the applicant's [redacted] claim for re-posting at Aircustoms Wing, Trivandrum Airport was duly considered but he was not posted. His representation also has been disposed of. The direction of the Tribunal in the judgment in O.A. 549/91 has been adequately complied with. Accordingly the CCP is closed and notice of contempt discharged.

N. Dharmadan

(N. Dharmadan)
Judicial Member

S.P. Mukerji

(S.P. Mukerji)
Vice Chairman

3.12.92

Mr. M. Nair
Adv
Mr. B. C. D.
Order of the Court
Filed
10/12/92