

**CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH**

**O.A. NO.559 OF 2008**

Thursday, this the 22nd day of January, 2009.

**CORAM:**

**HON'BLE Dr.K.B.S.RAJAN, JUDICIAL MEMBER**

V.R.Babu  
Head Havildar  
Central Excise, Customs & Service Tax  
Angamaly Range Office, Angamaly  
Residing at Vallatheril House  
Valiyapallamthuruthu  
Chendamangalam P.O  
North Parur

... **Applicant**

(By Advocate Mr. Babu Cherukara )

versus

1. Commissioner of Central Excise, Customs & Service Tax  
Central Revenue Building  
I.S.Press Road, Cochin - 18

2. Joint Commissioner (P&V)  
Central Excise, Customs & Service Tax  
Central Revenue Building  
I.S.Press Road, Cochin - 18

3. Mr.P.K.Abdul Kareem  
Sepoy  
Central Excise, Customs & Service Tax  
Central Revenue Building  
I.S.Press Road, Cochin - 18

... **Respondents**

(By Advocate Mr. M.V.S.Nampoothiry, ACGSC (R1-2) )

The application having been heard on 19.01.2009, the Tribunal on 22.01.2009 delivered the following:

**ORDER**

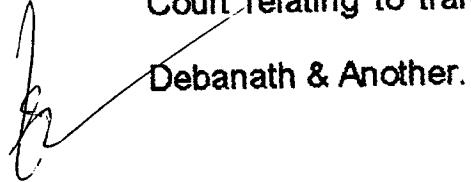
**HON'BLE Dr.K.B.S.RAJAN, JUDICIAL MEMBER**

The applicant is working as Head Havildar in the Central Excise, Customs & Service Tax Department and due for superannuation on 31.05.2010. He had joined Angamaly II Range Office on 11.07.2005 and continued to function at Angamaly Office even after merger of Angamaly I

& II Ranges on 09.12.2006. According to the applicant, posting at Angamaly, Parur or Alwaye Range was most convenient to him as he was to superannuate shortly, which he indicated in Annexure A-3 representation dated 06.02.2008. The applicant was issued with a transfer order dated 11.09.2008 whereby he stood transferred to HQrs Cochin and in his place one Shri P.K.Abdul Kareem, Sepoy has been posted. The applicant has challenged the above order of transfer mainly on the grounds that the norms prescribed by the Department relating to transfers clearly stipulate that the Station tenure is normally four years and that individuals due to retire in two years may be given their choice of place of posting whereas ignoring the above, the applicant has been transferred before he could complete the tenure of four years and without considering his choice station.

2. When the case was listed on 22.09.2008, an interim direction to the effect that the status quo was ordered. It was also stated therein that it is open to the applicant to join the new station, if he already stood relieved.

3. Respondents have contested the OA. They have stated that the Group 'D' Officers Association strongly recommended the transfer of the applicant as he has completed more than three years in Angamaly Range. It is also stated that the applicant had been relieved and Shri P.K.Abdul Kareem, Sepoy has been taken over. (The applicant has impleaded the aforesaid individual as private respondent). While praying for rejection of the OA, the respondents have referred to certain judgments of the Apex Court relating to transfer especially Union of India & Ors vs. Janardhan Debanath & Another.



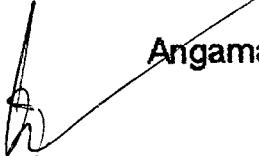
4. The applicant has filed his rejoinder and by this time he had already moved to the transferred post. In his rejoinder he has reiterated his stand as in the OA and submitted that the transfer order is against the deliberations and decisions of the especially JCM meeting held on 12.12.2007.

5. When the case was listed in October and November, 2008 on the directions of the Court the prescribed guidelines relating to transfer were filed by the respondents counsel memo dated 01.12.2008. Respondents have also filed certain relevant portion of the JCM meeting held in 2003 and 2008 and also furnished copy of letter dated 20.08.2008 (Annexure R1 to R3 refers) by a separate memo submitted by the respondents earlier.

6. Counsel for applicant referred to the prescribed guidelines and submitted that the guidelines relating to tenure of posting as well as latitude given to the retiring employees are available and as such, the decision of shifting the applicant is against the prescribed norms. Counsel for respondents while admitting such provisions available in the guidelines submitted that the applicant had already put in more than three years of service and his posting has now been occupied by the private respondent.

7. Though notice was issued to private respondent, no reply has been filed by him.

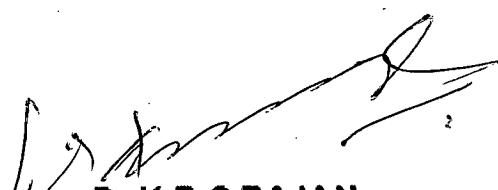
8. Arguments were heard and documents perused. Admittedly, the applicant is due for superannuation on 31.05.2010. His choice stations are Angamaly, Parur and Alwaye Ranges. The guidelines prescribing four



years tenure as well as concession available to retiring employees have not been denied by the respondents. From this point of view, shifting the applicant before completion of four years and without considering his choice station as indicated in Annexure A-3 makes the impugned order, vitiated so far the applicant is concerned. However, since the successor of the applicant has already joined and the applicant has also moved to Cochin and Cochin being not far away either from Alwaye or Parur for the present the applicant may continue at HQrs, Cochin itself till such time a vacancy arises in any of the three Ranges, viz., Angamaly, Parur and Alwaye. The very first available vacancies in any of the three Ranges may be utilized for posting the applicant to the place so that the applicant will be in a position to plan for his post-retirement life. Respondents shall inform the applicant at regular intervals (every two months) about the availability or otherwise of any vacancy at the aforesaid three Ranges.

9. With the above directions, OA is disposed of. No costs.

Dated, the 22nd January, 2009.



Dr. K.B.S. RAJAN  
JUDICIAL MEMBER

vs