

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.618/99

Friday this the 4th day of June, 1999

CORAM

HON'BLE MR. A.V HARIDASAN, VICE CHAIRMAN

N. Prasadan, Communication Assistant,
Central Excise and Customs
Commissionerate I, Cochin.18.Applicant

(By Advocate Mr. R.Rajasekharan Pillai)

Vs.

1. Union of India represented by the Secretary, Ministry of Finance, New Delhi.
2. The Commissioner, Central Excise and Customs, Cochin I Commissionerate, Cochin.18.
3. The Additional Commissioner (P&V) Central Excise and Customs, I.S.Press Road, Cochin.18.
4. V.V.Ramdas, Assistant Director of Communications, Central Excise and Customs, I.S.Press Road, Cochin.18.Respondents

(By Advocate Mr. T.A.Unnikrishnan, ACGSC (R.1to3)

The application having been heard on 4.6.99, the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN

This application is directed against the order dated 26.5.99 (A2) by which the applicant who is presently working as Communication Assistant at Cochin has been transferred to SCP unit, Kanhagad and ordered to be relieved with effect from 31.5.99. This order came the day next to issuance of A1 order by which the applicant was transferred from HQ, Cochin to Cochin.II office. The applicant has alleged that the reason for issuing the impugned

order in variation to the order at A.1 must be on account of the malafide intervention of the 4th respondent and the third respondent might have yielded to his influence. It is alleged that the 4th respondent had without sufficient reason issued a Memorandum of Charges to the applicant to which the applicant submitted an explanation, that not accepting the explanation the 4th respondent issued a warning and that this shows the malafide mind of the 4th respondent. It has further been alleged that one Mr. M.J.Thomas working in the same office of the applicant had assaulted the wife of the applicant on which a Criminal Case is pending and that if the applicant is suddenly transferred away from Cochin, the applicant's wife is likely to be exposed to further harrassment by the said Thomas. The applicant has also alleged that as he has not completed the tenure in Cochin, his transfer within a short time is opposed to the guidelines in regard to transfer. For all these reasons the applicant prays that the impugned order may be set aside as far as it concerns the applicant.

2. I have heard Shri Rajasekharan Pillai, learned counsel of the applicant and Shri Unnikrishnan, Advocate who appeared for the respondents 1 to 3. It is well settled by now that administrative orders like transfers and postings shall not be generally interfered with by courts and tribunals unless malafides or violation of statutory rules are shown to exist. In the application no malafides has been alleged against the third respondent who issued the impugned order. The only

allegation is that the 4th respondent who is the Assistant Director and who is unhappy with the applicant might have influenced the third respondent.

I am of the view that this is only a guess in the mind of the applicant which does not give rise to a cause of action. The Additional Commissioner of Central Excise and Customs is an authority of a fairly high level which cannot be normally expected to be influenced by what an Assistant Director would say. The allegation that the third respondent could have been influenced by the 4th respondent is nothing more than a vague guess work of the applicant. An authority at the level of Additional Commissioner cannot be presumed to have acted just on a statement of an Assistant Director without caring to satisfying itself whether it was in public interest to order the transfer of the applicant or not. Nothing has been stated in this application to establish that the third respondent would act unfairly or against public interest. Therefore, interference on the ground of malafides is not called as there is no such specific allegation. That the applicant having not completed a tenure and therefore the transfer against the guidelines is no ground to interfere because non-observance of guidelines would not cloth the applicant with a right to challenge the order of transfer. In public interest transfers can be ordered even without adhering to the guidelines. Other statements made in the application also are not sufficient to warrant interference by the Tribunal.

3. It appears that the applicant has made a representation to the first respondent. The first respondent may look into the grievances of the applicant made in his representation and give the applicant an appropriate reply as expeditiously as possible.

4. With the above observation the application is disposed of. No order as to costs.

Dated the 4th day of June, 1999.



A.V. HARIDASAN
VICE CHAIRMAN

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List of Annexures referred to in the Order:

Annexure.A1: True copy of the order of the third respondent as per Order No.65/99 dated 25.5.99.

Annexure.A2: True copy of the order of the third respondent as per order No.24/99 dated 26.5.99.

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