

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

Original Application No. 82 of 2011

Monday, this the 14th day of March, 2011

CORAM:

Hon'ble Ms.K.Noorjehan, Administrative Member

Anjali Sudershan

Tax Assistant

Central Excise, Customs and Service Tax

Cochin – 682 018

Applicant

(By Advocate – Ms.S Karthika)

V e r s u s

1. Union of India, rep. by its Secretary
Department of Revenue, Ministry of Finance
North Block, New Delhi – 110 001
 2. The Chairman
Central Board of Excise and Customs
North Block, New Delhi – 110 001
 3. The Chief Commissioner of Central Excise, Customs
and Service Tax, Kerala Zone, Central Revenue Building
I.S Press Road, Kochi – 682 018
 4. The Commissioner of Central Excise, Customs and
Service Tax Kerala Zone, Central Revenue Building,
IS Press Road, Kochi 682 018
- Respondents**

(By Advocate – Mr.Sunil Jacob Jose, SCGSC)

This application having been heard on 01.3.2011, the Tribunal
on 14.3.2011 delivered the following:

ORDER

By Hon'ble Ms. K.Noorjehan, Administrative Member -

1. The applicant has filed this Original Application seeking a direction to the respondents to grant inter-commissionerate transfer from Allahabad Commissionerate to Kochi Zone.

2. The facts in brief shows that the applicant was appointed as LDC in Vadodara Commissionerate under the second respondent on 10.06.1998. She was under the Allahabad Commissionerate from December 1999 to May 2006. She was promoted to UDC, now designated as Tax Assistant, in August 2005. Her husband who is working in Bank of Baroda was transferred to Kerala in 2006. As she could not live alone with her small child at Varanasi she requested for a transfer on compassionate ground to Kerala. She was granted deputation from May 2006 to May 2009. This was extended up to May 2011 now. The deputation can not be granted for more than five years as per the instructions of Central Board of Excise and Customs, R2. The ban on inter-commissionerate transfer in Group B, C and D posts was lifted vide Annexure A-3 which granted certain relaxation for transfer on spouse ground. Immediately the applicant submitted Annexure A-4 representation dated 06.04.2009 for inter-commissionerate transfer to Kochi zone. However, Annexure A-3 order of the Central Board of Excise and Customs was challenged in O.A 643/09 and connected cases before this Tribunal and the



Tribunal stayed the operation of Annexure A-3. The cases are still pending. R2 therefore issued Annexure A-9 clarification stating that the fixation of seniority of the beneficiaries of the inter-commissionerate transfer will be subject to the outcome of the O.As in 643/09 and other connected cases filed before this Tribunal. The applicant avers that based on this clarification Culcutta Commissionerate has granted inter Commissionerate transfer on spouse ground vide Annexure A-10 and produced Annexure A-10 in support of her averment. O.A 88/10 was disposed of by this Tribunal by Annexure A-11 order dated 19.02.2010. The learned counsel for the applicant submitted that the case of the applicant is exactly similar and hence he prays for a similar consideration as was granted to the applicant in O.A 88/10. Para 5 of the order is extracted below.

“ 5. We have heard Shri O.V Radhakrishnan, Senior counsel appearing on behalf of the applicant and Shri George Joseph, ACGSC for respondents. There is no dispute between the 2 commissionerates of customs, viz, Commissioner of Customs, Cochin and Chief Commissioner of Customs, Mumbai regarding the ICT of the applicant on spouse ground. As understood from the averments made by the respondents also, vacant posts of Tax Assistants are available in the Cochin Commissionerate to accommodate the applicant's request for transfer. Even though this Tribunal stayed the operation of Annexure A-1 order in O.A 650/2009 dated 27.03.2009 the same was modified vide a subsequent order dated 07.12.2009. The issue involved in O.A 650/2009 is regarding the seniority of the inter commissionerate transferees i.e. whether they have to be given bottom seniority in the Commissionerate where they are accepted or they should retain the original seniority which they were having at their original commissionerate. This issue has to be considered in due course after

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hearing the parties in O.A 650/2009 and connected cases. However, since both the commissionerates have agreed for the implementation of Annexure A-5 regarding ICT on spouse ground, we allow this O.A making it clear that the applicant's inter se seniority in the Cochin Commissionerate is yet to be decided. As the Applicant's present tenure of deputation is expiring on 24.02.2010, the respondents shall effect the transfer of the applicant to the Cochin Commissionerate as early as possible. There shall be no order as to costs. "

3. In the instant case, following the order of this Tribunal in O.A 88/10, the third respondent is directed to consider the request for transfer of the applicant leaving the issue of her seniority to be decided on disposal of the O.As pending before this Tribunal. Ordered accordingly. No costs.

(Dated this the 14th day of March, 2011)


(K. NOORJEHAN)
ADMINISTRATIVE MEMBER

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