

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. 9/97

WEDNESDAY, THIS THE 11TH DAY OF JUNE, 1997

C O R A M:

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

HON'BLE MR. P.V. VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

T. Rathish Babu S/o T. Subramanian,
Mangat Thazham house,
Karaparamba P.O., Calicut.

..Applicant

By Advocate Mr. Sunney Mathew

Vs.

1. The Collector of Central Excise,
Madras.
2. The Collector of Central Excise,
I.S. Press Road, Ernakulam,
Cochin.
3. The Asst. Collector, Special Customs,
Revenue Division, Kozhikode.
4. Central Board of Excise & Customs
represented by the Secretary,
New Delhi.
5. Under Secretary to the Government of India
Ministry of Finance,
Department of Revenue,
New Delhi.

..Respondents

By Advocate Mr. T.P.M. Ibrahim Khan, SCGSC

The application having been heard on 11.6.97, the Tribunal
on the same day delivered the following:

O R D E R

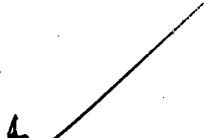
HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN

The applicant's father T. Subramanian was serving the Department of Central Excise & Customs as a Lascar w.e.f. 9.1.62. While so, nothing was heard of him from 13.6.73. The applicant at that time was an infant. On attainment of majority, in 1994 the applicant made a representation to the third respondent for employment assistance on compassionate grounds. Though the applicant was, pursuant to this application called upon to appear in the office of the Assistant Collector, Special Customs (Preventive Division), Kozhikode, his request for compassionate appointment was

turned down by order dated 1.2.95 (Annexure A3) on the ground that as late Subramanian has resigned from service on 28.2.74, the question of granting compassionate appointment to the applicant did not arise. Aggrieved by this, applicant made an appeal which was rejected by Annexure A4 order. It is aggrieved by these two orders that the applicant has filed this Original Application under Section 19 of the Administrative Tribunals' Act, 1985 praying that the respondents be directed to give the applicant a suitable appointment on compassionate ground. It has been alleged in the application that since the whereabouts of the applicant's father was not known after 7 years, the respondents should have drawn a presumption of death, and granted employment assistance to the applicant under the scheme.

2. The respondents in their reply have contended that late father of the applicant remained absent unauthorisedly from 16.6.73 onwards, that a charge sheet was sent to him, that an enquiry officer was appointed and that in the meanwhile as late Subramanian submitted his resignation, the same was accepted dropping the disciplinary proceedings. According to the respondents as the applicant's father had resigned from service, the question of granting compassionate appointment to the applicant does not arise.

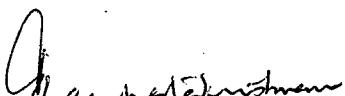
3. We have heard learned counsel for the parties and perused the records. The respondents have produced along with the reply statement an extract (Annexure) R-2A) from the Register of Disciplinary proceedings in which the details regarding the suspension of the applicant's father, the drawal of charge sheet, appointment of an enquiry officer and the fact that the resignation submitted by the applicant's father was accepted by the Assistant Collector vide order dated 1.7.74, have been recorded. We directed the counsel appearing for respondents to produce the resignation letter submitted by the applicant's father, the order passed thereon, or any other document to show that the applicant's father has



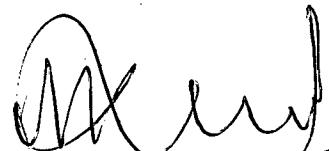
resigned and this suggestion was accepted by the competent authority. The learned counsel for respondents submits that these documents are not now available with the respondents. However, when the matter came up for hearing today, the original Register of the Disciplinary cases was made available to us. We find from the Register that in the matter of late T. Subramanian, the father of the applicant, he was placed under suspension, that a charge sheet was drawn up against him, that an enquiry officer was appointed and that further actions in the disciplinary proceedings were dropped as the resignation submitted by Sri Subramanian was accepted by the competent authority. We have no reason to suspect that this Register has been cooked up by the respondents. No malafides have been alleged against any officer in the Department. There is no allegation that the story of resignation by the applicant's father was cooked up by any individual who was interested in denying compassionate appointment to the applicant. In the facts and circumstances of the case emerging from the materials on record, we are inclined to accept the case of the respondents that the father of the applicant had tendered resignation which was accepted by the competent authority. As the scheme of compassionate appointment does not cover the dependents of the persons who have resigned from service, we find no ground for interference.

4. The application is rejected under Section 19(3) of the Administrative Tribunals' Act, 1985. No costs.

Dated the 11th June, 1996.


P.V. VENKATAKRISHNAN
ADMINISTRATIVE MEMBER

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A.V. HARIDASAN
VICE CHAIRMAN

LIST OF ANNEXURES

1. Annexure A3: True copy of the order passed by the 2nd respondent dated 1.2.95 order C. No. II/39/13/91-Estt.VI.
2. Annexure A4: True copy of the order passed by the 5th respondent dated 17.4.96 order F.No.C-18013/52/95-Ad.III-B.
3. Annexure R-2(A): True copy of the Vigilance Register.

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