

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH
ERNAKULAM

DATE OF DECISION

2 ND FEBRUARY, 1990.

PRESENT

HON'BLE SHRI S.P. MUKERJI-VICE CHAIRMAN
&
HON'BLE SHRI N. DHARMADAN-JUDICIAL MEMBER

ORIGINAL APPLICATION No.71/90

A.C. Antony .. Applicant

Vs.

1. Union of India represented by
the Secretary, Ministry of
Finance, Department of
Revenue, New Delhi.
2. The Collector of Central Excise
and Customs, I.S.Press Road,
Cochin-18.
3. K.Krishnan Nambiar,
Superintendent of Central Excise,
Kozhikode Range I,
Kozhikode. .. Respondents

Counsel for the applicant .. Mr.K.Ramakumar.

Counsel for the respondents.. Mr PV Madhavan Nambiar

ORIGINAL APPLICATION NO.85/90

- 1.P.N.Sudarsanan.
- 2.Kerala Central Excise Gazetted
Executive Officers Association. .. Applicants

Vs.

- 1.Union of India represented by
Secretary to Government,
Ministry of Finance, New Delhi.
2. The Collector of Central Excise,
Central Excise, Revenue Building,
Cochin-18.
3. K.Krishnan Nambiar
4. E.C.Divakaran
5. K.K.Sivasankara Panicker
6. V.E. D'Silva. .. Respondents

Counsel for the applicants .. M.R.Rajendran Nair

Counsel for the respondents .. Mr.P.V.Madhavan Nambiar,
SCGSC

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(Hon'ble Shri S.P.Mukerji, Vice Chairman)

Since common questions of facts, law and relief

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are involved in these two applications, they have been heard together and are disposed of by a common judgment as follows.

2. The applicants are working as Superintendents, Central Excise and their grievance is that while their juniors have been posted to the International Airport, Trivandrum on the basis of seniority-cum-suitability criterion, they have been excluded from such posting. Their presumption is that their exclusion is not because ~~of~~ they are unsuitable but because they have less than three years service to retire.

3. The respondents have not filed any Counter Affidavit but given a statement in O.A. 71/90 explaining that the officials posted at ^{the} International Airport at Trivandrum should have some special characteristics and therefore a selection process has to be gone through. The Collector of Central Excise is free to choose officers who may ^{be} ~~consider~~ ^{-ed} fit for posting at the International Airport at Trivandrum. The respondents have referred to the judgment of the Tribunal relied upon by the applicant in O.A. 269/89 ^{is} ~~and~~ indicate that, that judgment was with reference to the Inspector of Central Excise and the background of the case was entirely different. The respondents have also referred to another judgment of this


Tribunal in O.A. 388/89 in which it was held by the Tribunal that posting to the Airport being an administrative matter, the Tribunal would not be inclined to admit that application. That case was disposed of by the Tribunal with the direction to the respondents that they may consider the representation of the applicant in that case and dispose ~~of~~ ^{it} within a period of one week.

4. We have heard the arguments of the learned counsel for both the parties and gone through the documents carefully. The learned Sr. Central Government Standing Counsel Shri Nambiar was good enough to make the proceedings of the Committee which held its meeting on 22nd January, 1990 available to us. In that meeting a selection of Superintendents was made for the posting to the International Airport. From the proceedings it was clear that the applicants in these two cases (excluding the second applicant in O.A. 85/90) were excluded solely on the ground that they had less than three years of service to retire. The learned counsel for the applicants drew our attention to the judgment given by one of us (~~Honble~~ Shri S.P. Mukerji) in O.A. ...269/89 on 27.6.89 in which it was held that an Inspector who had less than three years of service could not be excluded on the only ground that he had less than three years service. We

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agree with the learned counsel for the respondents that that case was in connection with an Inspector but the Tribunal had specifically indicated that different criteria cannot be countenanced to be adopted by different committees between an Inspector and Superintendent. Much more that it had been brought to the notice of the Tribunal in that case that a Superintendent with less than eight months of service was selected for posting at Air Customs Pool. That gives an additional strength to the merits of the two applications before us which are not of Inspectors but of Superintendents.

5. In the facts and circumstances, we allow these two applications with the directions to the respondents 1&2 that the applicants' cases also should be considered by a review committee as on 22.1.90 irrespective of the fact of their having less than three years of service and if they are found to be otherwise suitable to be posted at the Air Customs Pool, they should be posted there on the basis of their suitability and seniority notwithstanding the impugned Office Order/10/90 dated 23.1.90. Action on the above lines should be completed within a period of three weeks from the date of communication of this order. There will be no order as to costs.


(N. DHARMADAN)
JUDICIAL MEMBER


(S.P. MUKERJI)
VICE CHAIRMAN

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