

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 137 of 2003

Monday, this the 7th day of April, 2003

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HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN
HON'BLE MR. T.N.T. NAYAR, ADMINISTRATIVE MEMBER

1. K. Sakthidharan,
Superintendent of Central Excise,
FACT Range, Central Excise Bhavan,
Kathrukadavu, Ernakulam.Applicant

[By Advocate Mr. K. Sasikumar]

Versus

1. Director General, Narcotics Control Bureau,
Ministry of Finance, Department of Revenue,
Govt. of India, West Block No.1,
R.K. Puram, New Delhi-66

2. Deputy Director (Administration),
Narcotics Control Bureau, Govt. of India,
West Block No.1, Wing No.5, R.K.Puram,
New Delhi-66

3. The Zonal Director,
Narcotics Control Bureau,
C-3, Rajaji Bhavan, Basant Nagar, Chennai-90

4. M.S. Dev,
Superintendent, Narcotics Control Bureau,
Regional Intelligence Unit, Thiruvananthapuram.
(On deputation from the Commissionerate of
Customs, Custom House, Cochin).

5. Commissioner of Central Excise,
Cochin.

6. Commissioner of Customs,
Cochin.

7. Union of India, represented by the
Secretary, Ministry of Finance,
Govt. of India, New Delhi.Respondents

[By Advocate Mr. C. Rajendran, SCGSC (R1 to R3 and R5 to R7)]

The application having been heard on 7-4-2003, the
Tribunal on the same day delivered the following:

O R D E R

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

The applicant, Superintendent of Central Excise, FACT
Range, Central Excise Bhavan, Ernakulam, has filed this
application challenging Annexure A1 order dated 4-12-2002 by

which Shri N.S.Dev, Superintendent of Central Excise (the 4th respondent) was selected and appointed on deputation basis as Superintendent, Narcotics Control Bureau, Regional Intelligence Unit, Trivandrum. It is alleged in the application that the post of Superintendent in the Narcotics Control Bureau is to be filled by considering the eligible candidates for deputation, who hold analogous posts on regular basis with two years regular service in posts in the scale of pay of Rs.2000-3200 or with three years regular service in posts in the scale of pay of Rs.1640-2900 or who possess two years experience in enforcement of regulatory laws. The applicant who satisfied the requirements and is already holding the post of Superintendent had, on coming to know that the vacancy would arise, submitted his bio-data in advance. However, the post was not circulated by any notification with the result could not submit proper application with bio-data which is required to be submitted in a particular format. The grievance of the applicant is that without considering his candidature properly and without giving an opportunity to put forth his bio-data in the prescribed format, the 4th respondent has been selected and appointed. Therefore, the applicant seek to have the impugned Annexure A1 order set aside, for a declaration that the proceedings for issuance of Annexure A1 in the selection and appointment to the post of Superintendent in Narcotics Control Bureau, Regional Intelligence Unit, Trivandrum on deputation basis is unconstitutional and illegal, and for a direction to the 1st respondent to conduct a fresh selection and appointment in accordance with law, giving an opportunity to the applicant also and considering his comparative merit.

2. Shri C.Rajendran, SCGSC took notice on behalf of the respondents. The learned SCGSC under instructions from the respondents submitted that being a sensitive post the vacancy

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in question was not publicized; that although the applicant's application with bio-data was not forwarded by his Controlling Officer, the applicant along with the 4th respondent was considered for selection on the basis of the advance copy sent by him, that the applicant was not found suitable for the sensitive post and that the 4th respondent having been found most suitable was selected and appointed on deputation. The counsel submitted that considering the nature of the job the selection was to be made on considering the merits and suitability for the particular post and that the Tribunal may not interfere in the matter.

3. Learned counsel of the applicant vehemently argued that the statement made by the counsel on behalf of the respondents that the applicant's case has been considered cannot be taken as true as the applicant has not been able to put forth his candidature in the prescribed proforma for want of notification.

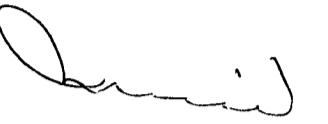
4. The case of the applicant that his candidature was not considered for want of an application in the proper format has been denied by the respondents. Since no malafides has been alleged against any of the official respondents responsible for the selection, we find no reason to suspect the case of the respondents that the applicant's candidature was considered on the basis of the advance copy of the application sent by him. Since the selecting authority found the 4th respondent more suitable for the job, considering the nature of the job and the personal qualities of the candidate, we find no reason for judicial intervention in the matter. No legal rights of the applicant has been denied or violated. Therefore, there is no legitimate grievance which calls for adjudication by the Tribunal.

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5. In the light of what is stated above, we reject this application under Section 19(3) of the Administrative Tribunals Act, 1985. No costs.

Monday, this the 7th day of April, 2003


T.N.T. NAYAR
ADMINISTRATIVE MEMBER


A.V. HARIDASAN
VICE CHAIRMAN

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