

.1.

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.158/09

Friday this the 1st day of May 2009

C O R A M :

HON'BLE Mr.GEORGE PARACKEN, JUDICIAL MEMBER

C.Suresh Babu,
Superintendent of Central Excise,
Air Cargo Complex (UB),
Calicut Airport, Karipur, Malapuram District.

...Applicant

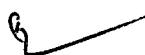
(By Advocate Mr.C.S.G.Nair)

Versus

1. Union of India represented by its Secretary,
Department of Revenue, North Block,
New Delhi – 110 001.
2. The Chief Commissioner of Central Excise & Customs,
Central Revenue Buildings,
I.S.Press Road, Kochi – 18.
3. The Commissioner of Central Excise,
Central Revenue Buildings,
I.S.Press Road, Kochi – 18.
4. The Commissioner of Central Excise & Customs,
Central Revenue Buildings,
Mananchira, Kozhikode.
5. The Assistant Commissioner of Customs,
Air Cargo Complex (UB),
Calicut Airport, Karipur,
Malappuram District. ...Respondents

(By Advocate M.T.P.M.Ibrahim Khan,SCGSC)

This application having been heard on 1st May 2009 the Tribunal
on the same day delivered the following :-



.2.

ORDER

HON'BLE Mr.GEORGE PARACKEN, JUDICIAL MEMBER

The applicant is aggrieved by Annexure A-9 order dated 27.2.2009 transferring him from ACC (UB), Calicut to Airport Calicut. He challenged the aforesaid order on the ground that he was working there only from 19.1.2009 and it was issued before his tenure has been completed. He has also submitted that even though there was no vacancy available there, one Shri.Sakthidharan was brought from Ernakulam to ACC UB Calicut and posted there. His allegation is also that Shri.Sakthidharan's posting was not done by competent authority and his posting was on extraneous considerations. Taking a prima facie view that there was merit in the contention of the applicant, vide order dated 6.3.2009 this Tribunal directed the respondents not to implement the Annexure A-11 relieving order in the case of the applicant.

2. Counsel for the respondents have filed a reply statement wherein it has been stated that the sanctioned strength of the Superintendents in ACC UB Calicut is only 3 and with the posting of Shri.K.Sakthidharan it was increased to 4 and since the applicant was the junior most person there, he was again transferred out of ACC UB Calicut. It was further stated in the reply that the postings to Airport/ACC UB is issued by the Cadre Controlling Authority on the basis of seniority cum willingness. Since there were no officers willing to work at ACC UB Calicut, further willingness was called for by the Commissioner of Central Excise and Customs, Calicut by



.3.

Annexure A-3 letter dated 18.11.2008. In response to the above the applicant who is very junior in the cadre of Superintendent submitted his willingness. Accordingly he was posted to ACC UB Calicut vide Annexure A-5 order dated 24.11.2008.

3. I have heard Shri.C.S.G.Nair for the applicant and Shri.T.P.M.Ibrahim Khan,SCGSC for the respondents. It is seen that when the respondents were not getting senior most Superintendents, they called for further willingness of juniors. The applicant has offered his services to work as Superintendent ACC UB Calicut when the seniors were reluctant to go there. Accordingly, he was posted there on 19.1.2009. Suddenly the respondents have posted one Shri.K.Sakthidharan who is sufficiently senior in the cadre of Superintendents and the applicant has been shifted out. In my considered opinion the transfer of the applicant is illegal, arbitrary and liable to be set aside. I, therefore, allow this O.A. Accordingly, the Annexure A-9 order dated 27.2.2009 transferring the applicant from ACC UB Calicut to Airport Calicut is quashed and set aside.

4. There shall be no order as to costs.

(Dated this the 1st day of May 2009)


GEORGE PARACKEN
JUDICIAL MEMBER

asp