

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

G.A.T. (PROCEDURE) RULES

OA Nos.2242/93, 839/94, 202/94 & 260/94.

Tuesday, this the 28th day of June, 1994

C O R A M

HON'BLE MR JUSTICE CHETTUR SANKARAN NAIR, VICE CHAIRMAN.

HON'BLE MR PV VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

....

OA 2242/93W Samuel Varghese,
Superintendent,
Customs House, Cochin--9.

....Applicant

By Advocate Shri MR Rajendran Nair.

Vs.

1. The Principal Collector,
Customs House, Madras.
2. The Collector of Customs,
Customs House, Cochin--9.
3. The Collector of Central Excise & Customs,
Cochin--18.
4. Union of India represented by
Secretary, Ministry of Finance,
New Delhi.
5. R Vishnu Das,
Superintendent of Customs (Preventive),
Customs House, Cochin--9.
6. M Kaishak Babu,
Superintendent of Customs (Preventive),
Customs House, Cochin--9.

....Respondents

R.1-4 by Shri C Kochunni Nair, Senior Central Govt Standing Counsel

R. 5 by Advocate Shri CS Rajan.

R.6 by Advocate Shri KP Dandapani.

....

OA 839/94

1. Cochin Customs Preventive Service
Association represented by Secretary,
PK Thulasidas, Preventive Officer,
Custom House, Cochin--9.
2. George Mathew Pullat,
Preventive Officer,
Custom House, Cochin--9.

....Applicants

By Advocate Shri MR Rajendran Nair.

Vs.



1. Union of India represented by
Secretary, Ministry of Finance,
Department of Revenue, New Delhi.
2. The Principal Collector of Customs,
Custom House, Madras.
3. The Collector of Customs,
Custom House, Cochin—9.
4. The Collector of Central Excise & Customs,
Cochin—9.

....Respondents

By Shri K Karthikeya Panicker, Addl Central Govt Standing Counsel.

....

OA 202/94

R Vishnu Das,
Superintendent of Customs (Preventive),
Customs House, Cochin—9.

....Applicant

By Advocate Shri CS Rajan.

Vs.

1. Union of India represented by
Secretary, Ministry of Finance,
Department of Revenue, New Delhi.
2. The Principal Collector of Customs,
Customs House, Madras.
3. The Collector of Customs,
Custom House, Cochin—9.
4. The Collector of Central Excise & Customs,
Cochin—16.

....Respondents

By Shri C Kochunni Nair, Senior Central Govt Standing Counsel.

....

OA 260/94

AC D'Silva, Superintendent of Customs,
Preventive Department,
Cochin Custom House, Cochin—9.

....Applicant

By Advocate Shri MK George.

Vs.

1. Collector of Customs,
Cochin—9.
2. Collector of Central Excise,
Custom House, Cochin—18.
3. Principal Collector,
Custom House, Madras.

contd.



4. Union of India represented by
Secretary, Ministry of Finance,
New Delhi.

....Respondents

By Shri C Kochunni Nair, Senior Central Govt Standing Counsel.

....

O R D E R

PV VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

Applicants in OA 2242/93 and OA 839/94 pray for quashing Annexure A1 order dated 21.10.93 by which the Air Customs Pool was reconstituted by the Government of India. The order basically confines Air Pool to the Inspectors and Superintendents of Central Excise and Preventive Officers and Superintendents of Customs, excluding other cadres. There is also a distribution of Air Pool posts between various controlling Collectorates of Central Excise and Customs as the case may be and other (outside) Custom Houses/Central Excise Collectorates. The grievance of the applicants is that by this process, the number of posts available to them in the Air Pool has been considerably reduced "which is an injustice and against the right for equality of opportunity".

2. In OA 202/94, applicant prays that he may be deputed to the Air Customs, Trivandrum International Airport as Air Customs Superintendent in the vacancy arising on 1.3.94 and in OA 260/94, applicant has prayed for posting as Air Customs Superintendent at Trivandrum International Airport in the vacancy arising on 1.3.94, notwithstanding pendency of disciplinary proceedings against him. Since these two prayers basically depend on the operation of the reconstituted Air Customs Pool which is challenged in OA 2242/93 and OA 839/94, they are also being disposed of along with these applications.

3. Respondents in the reply filed in OA 2242/93 have stated that the impugned Annexure I order:

"was issued after considering various
instructions/guidelines on selection of Air Customs

contd.

Pool....In as much as no post of Superintendents at Trivandrum is available for Cochin Custom House on deputation basis and there is no quota for Scheduled Caste/Scheduled Tribe for postings to Airports, relief sought for by the applicant cannot be granted...applicant is fighting for a vacancy which is not there...Annexure I/Annexure R II makes an equitable distribution of posts of Air Customs Superintendents and Air Customs Officers in accordance with the numerical strength of Superintendents and officers....post of Superintendent is earmarked at Airport at Delhi, and Air Customs Officers at Trivandrum and Delhi...one post of Superintendent and four posts of Air Customs Officers at Indira Gandhi International Airport, Delhi and one post of Air customs Officer at Trivandrum Airport are earmarked for Cochin Custom House....Selection of officers for filling up the vacancies under 25% quota will be made after calling for willingness from various Custom Houses in accordance with the revised guidelines....applicants therein made representations dated 27.12.93 before the Government of India which was disposed of by rejecting it..."

The rejection order of Government of India which is Annexure R VI, states:

"The new Air-Pool policy dated 21.10.93 provides for selection of officials from smaller Collectorates/neighbouring Collectorates, in case the officials are not willing to be deputed from the earmarked Collectorates and, therefore, the possibility of posting the officials belonging to Customs Cochin at Trivandrum Airport in the event of non-availability of officials from the earmarked Collectorates, cannot be discounted and, hence, the contention of the petitioners that the interest of the officials of Cochin Custom House has been affected adversely under the new Air-pool policy is totally misconceived....That a particular Collectorate happens to be the controlling Collectorate for an International Airport cannot itself be a reason for any cause of injustice to the officials of the other Collectorates....in distributing the posts of ACOs/ACSS between various Collectorates, a uniform principle has been followed based upon proportionate strength so as to ensure representation of each and every Collectorate in the airpools."

3. It is seen that the Government of India are well within their rights to reconstitute the Air Customs Pool in the manner in which they have done. This is a matter of policy and it is entirely within the realm of administrative action. It is for the respondents to fill up vacancies in accordance with rules. Infringement of no legal right of the applicants is involved in this exercise and this Tribunal cannot, in matters like this,, interfere with the decisions of the type challenged before us. All these applications are without merit and are hereby dismissed.

contd.

4. During the lengthy arguments before us, counsel for applicants has stated that implementation of the new policy is leading to various difficulties. As an instance, he quoted Annexure A15 in OA 839/94 wherein it has been stated that "against the allocation of posts of 13 ACS and 48 ACOs to the Principal Collector of Customs, Bombay, only 2 names of ACOs have been received". This, according to applicants, would show that the new policy was not properly framed. We also notice from the pleadings that by a mechanical application of the distribution formula, one post of ACS in Delhi is allotted to Cochin Custom House whereas one post of ACS in Trivandrum Airport is allotted to Calcutta Custom House. Administratively, perhaps, it would be more convenient if the ACS's post in Trivandrum Airport is allotted to Cochin Custom House and the ACS's post in Delhi Airport is allotted to Calcutta Custom House. It is also seen that officers of the controlling Collectorates take away not only 75% of the posts allotted to them, but also a share in the 25% allotted to outside Collectorates. Since their staff strength is large and since the distribution of 25% among various Custom Houses is related to staff strength, they also take away virtually the entire 25% allotted to outside Collectorates. These are matters for the Government to consider. We, therefore, suggest that respondents may take a second look at the scheme set out in Annexure I in OA 2242/93 giving the applicants or their representatives adequate opportunities for putting forth their views in this matter and if necessary, modify the scheme to make it more acceptable to the officers of the Custom Houses.

6. Applications are, accordingly, dismissed with the above observations. No costs.

Dated the 28th June, 1994.

sd/-
PV VENKATAKRISHNAN
ADMINISTRATIVE MEMBER

sd/-
CHETTUR SANKARAN NAIR (J)
VICE CHAIRMAN

CERTIFIED TRUE COPY

ps276

Date 7.7.94

Mammy
Deputy Registrar

Enclosures :

List of Annexures



Subject:- Air Writing and Selection

Before the Honourable Central Administrative
TRIBUNAL, ERNAKULAM BENCH, Ekm.

O. A. No.

2242

1993

W. Samuel Varghese

:

Applicants

Vs

The Principal Collector ; Respondents
& Others.

INDEX

Sl. No.	Particulars	Page Nos.
<u>COMPILATION No. I:-</u>		
1.	Original Application	1 to 8
2.	Annexure-I true copy of the Ministry's letter F.No.A-11019/102/91-Ad.IV, dated 21-10-93 issued by R.K.Mitra, Under Secretary to the Govt. of India, Ministry of Finance, Dept. of Revenue (4th respondent)	9 - 11
<u>COMPILATION No. II:-</u>		
3.	Annexure-II True copy of the Government of India Office Memorandum No.36012/7/77-Est. (SCT), dated 21-1-1978. (4th Respondent) <i>Annexure by Govt. of India, Dept. of Revenue</i>	12
4.	Annexure-III True copy of the representation dated 16-10-93 submitted by the applicant to the 1st respondent.	13 & 14
5.	Annexure-IV True copy of the judgement dated 3-11-93 in O.A.1841/93 of this Hon'ble Tribunal.	15 & 16