

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 22 of 2002

Tuesday, this the 8th day of January, 2002

CORAM

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

1. R. Nandan Thampi,
Senior Technical Assistant,
Telecommunication Wing, Office of
the Commissioner of Central Excise & Customs,
Central Revenue Buildings, I.S.Press Road,
Cochin-682 018Applicant

[By Advocate Mr. C.S.G. Nair]

Versus

1. Union of India, represented by the Secretary,
Department of Revenue, Ministry of Finance,
North Block, New Delhi-110001

2. The Commissioner of Central Excise & Customs,
Central Revenue Buildings,
I.S.Press Road, Cochin-682018

3. Sri V.V. Ramadoss,
Assistant Director (Communications),
Central Excise & Customs,
Central Revenue Buildings,
I.S.Press Road, Cochin-682018Respondents

[By Advocate Mr. C. Rajendran, SCGSC (R1 & R2)]

The application having been heard on 8-1-2002, the
Tribunal on the same day delivered the following:

O R D E R

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

The applicant, Senior Technical Assistant in the
Telecommunication Wing of the Office of the Commissioner of
Central Excise and Customs, has filed this application for a
direction to the 2nd respondent to implement Annexure A4 order
transferring the 3rd respondent to Tuticorin by relieving him
and to direct the 2nd respondent to change the Reporting
Officer of the ACR for the year 2001-2002.

2. It is alleged in the application that the 3rd respondent who has been impleaded by name does not possess the requisite qualification to man the post of Assistant Director (Communications), that he had secured the job by producing false documents, that he is inimical towards the applicant, that he has made adverse entries in the ACRs of the applicant for the last three years and that if he is allowed to continue any more in the post which he is presently holding and continue to report about the applicant in the ACRs that would put the applicant to undue hardship and that therefore the applicant is entitled to the reliefs as aforesaid.

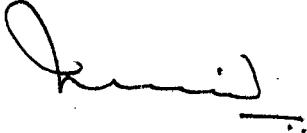
3. On a careful scrutiny of the materials placed on record and on hearing the learned counsel of the applicant as well as Sri C.Rajendran, learned counsel of the respondents 1 and 2, we do not find that the applicant has any legitimate cause of action to maintain this application. Annexure A4 by which the 3rd respondent was transferred from Cochin to Tuticorin was issued by the 1st respondent on 5th October, 2001. When the order of transfer is to be given effect to is a matter which would be decided by the 1st respondent and authorities under him. It is not open to the applicant to seek a direction for implementation of the order of transfer of the 3rd respondent. If the 3rd respondent as reporting officer had made adverse entries in the ACR of the applicant, it is upto the applicant to challenge those entries by making representations and if the representations are rejected, to seek remedies if any before the appropriate forum. That does not entitle the applicant to seek a direction to give effect to the orders of transfer. The applicant also has no right to seek that the 3rd respondent should not function as the reporting officer in his case so long as the 3rd respondent holds the post of Assistant Director (Communications) in the office of the Commissioner of Central

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Excise and Customs, where the applicant stands posted. If the applicant has got any grievance regarding the adverse entries in his ACRs, it is for him to make representation to the higher authorities seeking redressal of his grievance.

4. In the light of what is stated above, the application is rejected under Section 19(3) of the Administrative Tribunals Act, 1985.

Tuesday, this the 8th day of January, 2002


T.N.T. NAYAR
ADMINISTRATIVE MEMBER


A.V. HARTDASAN
VICE CHAIRMAN

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APPENDIX

Applicant's Annexures:

1. Annexure A-1 : A true copy of the Judgement dt.23.7.01 in O.P No.6009/2001 of the Hon'ble High Court of Kerala.
2. Annexure A-2 : A true copy of the representation dt.1.5.2001 submitted by the applicant.
3. Annexure A-3 : A true copy of the memo C.No.II/9/1/2001- Con.Cx dt.14.5.2001 issued by the 2nd respondent.
4. Annexure A-4 : A true copy of the Office Order No.23/2001 dt.5.10.2001 issued by the 1st respondent.
5. Annexure A-5 : A copy of the DO letter No.DO F.No.75/COCHIN/ 2000-COMNS/3676 dt.20 August 2001 sent by the Commissioner, Preventive Operations, Customs and Central Excise, New Delhi.

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