

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A. NO. 249/09

Dated this the 21st days of January, 2010

C O R A M

HON'BLE SMT. K. NOORJEHAN, ADMINISTRATIVE MEMBER

V. Narayanan,
Superintendent of Central Excise & Customs
Service Tax Research Analysis & Technical Unit
Central Revenue Building, Mananchira
Calicut-673 001

..Applicant

By Advocate Mr.V. Rajendran

Vs.

1 Union of India represented by the Revenue Secretary
Department of Revenue, Ministry of Finance
North Block, New Delhi-110 001

2 The Commissioner of Central Excise & Customs
CR Building, IS Press Road, Ernakulam-18

3 The Commissioner of Central Excise & Customs
C.R. Building, Mananchira, Calicut-673 001

4 The Chairman,
Central Board of Excise & Customs
New Delhi.

..Respondents

By Advocate Mr. MVS Nampoothiri, ACGSC

**The Application having been heard on .12.1.2010 the Tribunal
delivered the following:**



ORDER

HON'BLE MRS. K. NOORJEHAN, ADMINISTRATIVE MEMBER

The applicant, a Superintendent of Central Excise & Customs, Service Tax Research Analysis & Technical Unit in Calicut, is challenging Annexure A-2 order transferring him from Air Customs, Calicut to Calicut Central Excise Commissionerate, without transfer benefits..

2 According to the applicant, while working as Superintendent of Central Excise & Customs, at Cochin Commissionerate, he was transferred to Air Customs, Calicut on 26.6.2006 (A-1). It was stated therein that the transfer was for a maximum period of two years. He joined duty on 27.6.2006, shifted his residence to Calicut. While so, by Annexure A-2 order he was transferred to Calicut Commissionerate on administrative grounds denying transfer benefits and joining time. The main grounds raised by the applicant are that he was transferred to Air Customs Calicut for a maximum period of two years reserving the right of the department to transfer him earlier on administrative grounds. The transfer before the expiry of the term on administrative grounds casts aspersions on the applicant, there was no administrative exigency to transfer him out of Air Customs with immediate effect even without a substitute and the transfer was influenced by extraneous considerations, done mechanically and denial of transfer grant and joining time are illegal.

3 The respondents in their brief reply statement submitted that the applicant was posted out of Air Customs Calicut to Calicut Commissionerate on administrative ground as per Vigilance Section



noted dated 27.10.2006 According to para 10 of Circular No. 13/2001 dated 31.3.2001 if officers are transferred out of any station (or Airport/UB Centre) before completion of their tenure on disciplinary grounds, such transfers are not in public interest and consequently they will not be eligible for any transfer benefits.

4 The applicant filed rejoinder producing true copy of Annexure A-9, the "Note" recommending transfer. It does not indicate the reason for the transfer. He stated that there is no disciplinary case pending against him therefore the transfer is not based on any disciplinary grounds.

5 We have heard learned counsel for the parties and gone through the pleadings. It is seen that FIR 284/02 was registered on the basis of a private complaint by a person who was being investigated by the applicant in a multi crore hawala/smuggling case. No material is produced before us to show that a disciplinary proceeding is either contemplated or pending against the applicant. The Note at Annexure A-9 does not disclose any vigilance case or departmental proceeding against the applicant. The applicant has not requested for the transfer. However, we notice that the applicant has submitted a representation to the Chairman, Central Board of Excise & Customs, New Delhi through proper channel, for review of the transfer order & denial of benefits, through proper channel, which has not been disposed of so far.

6 In the above circumstances, we are of the considered view that the ends of justice will be met if the O.A can be disposed of with direction to the respondents. Accordingly, we direct the 3rd

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respondent to forward the representation submitted by the applicant to the 4th respondent who will consider the same keeping in mind the observation of the Tribunal above. This shall be done within two months from the date of receipt of a copy of this order. No costs.

Dated 21st January, 2010


(K. NOORJEHAN)
ADMINISTRATIVE MEMBER

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