

CENTRAL ADMINISTRATIVE TRIBUNAL
MADRAS BENCH

Application No. OA 261/1987

K. Vijayaraghavan : Applicant

Versus

Collector of Central : Respondent
Excise, Broadway, Cochin.

M/s Chandrasekharan & : Counsel for applicant
Chandrasekhara Menon

Sri P.V. Madhavan Nambiar, : Counsel for respondent
SCGSC

CORAM:

Hon'ble Sri G. Sreedharan Nair, Member (Judicial).

ORDER

The applicant at present working as a Superintendent, Central Excise in the Air Pool, Trivandrum has filed this application for setting aside the order dated 31-3-1987 under which he has been transferred to Sultans Battery. The main ground on which the order is challenged is that the applicant is due to retire from service on 31-1-1988. It is stated in the application that though there were two vacancies at Trivandrum itself outside the Air Pool he has not been considered for posting against either of them. The applicant has referred to the cases of four

officers who were allowed to continue at the Air Pool for more than 2 years.

2. In the reply filed by the respondent it is contended that the normal period as per the rules is only 2 years which the applicant would complete by 8-6-1987. The applicant would complete was transferred to Sultans Battery as he had mentioned Tellichery as his home-town and since he is to retire by January 1988. The two vacancies referred to by the applicant have been filled up by officers who had been working outside Trivandrum for more than the last 2 years. The persons mentioned as having overstayed the tenure period of 2 years had been retained for administrative reasons. It is also stated that on the representation of the applicant the order transferring him to Sultans Battery has been reconsidered and he has been given a posting at Quilon, a place nearby.

3. Counsel of the applicant did not seriously dispute that the tenure period in the case of the applicant is only 2 years, though it is alleged in the application that it is 3 years. ^{However strong} ^{Reliance} was placed by him on the instructions contained in the letter dated 1-11-1978 issued by the Secretary, Central Board of Customs and Excise,

New Delhi. Clause (ii) of paragraph 5 was pressed into service. It is stated there that officers who are due to retire within an year or so may not be transferred from their State/District or from the proximity of the station where they propose to settle down after retirement and that those who are posted away from such a station may, if they so request, be brought to the proximity of that station within the last one year or so of their service. It is alleged in the application that when option was called for the applicant had given written option to remain at Trivandrum till retirement since he proposes to settle down at Trivandrum after retirement. This averment has not been controverted in the reply of the respondent. However on the basis that the home-town of the applicant is Tellicery, it is stated in the reply, that he has been posted to Sultans Battery. The instructions referred to above not only refers to the State/District of the officer but also the station where he proposes to settle down after retirement. Hence when the applicant had stated that he proposed to settle down after retirement at Trivandrum, when he is due to retire within a few months, transferring him to Sultans Battery is against the aforesaid instructions.

4. It is submitted by the counsel of the respondent that after the filing of this application the applicant had made a representation for reconsideration of the order of transfer on the basis of which the order has been modified and the applicant has been posted to Quilon. It was submitted that in view of the same the applicant cannot have any further grievance. No doubt Quilon is within the proximity of Trivandrum, ^{the} station where at present the applicant is working. But it is also to be taken note of that the applicant is working as Superintendent in the Central Excise and as such in case he is shifted to Quilon he will have necessarily to shift his residence from Trivandrum to Quilon. In view of the fact that the applicant is to retire from service within six months and as the applicant is eligible for continuance at Trivandrum itself ^{on the strength} ~~in view~~ of the instructions referred to earlier the order transferring him from Trivandrum has to be quashed, and I do so. The applicant will be retained in ^{one of} the post, that ^{at Trivandrum itself} ~~is being held by him~~ till his retirement on superanuation.

5. The application is allowed as above.

10-7-1987
(G. Sreedharan Nair)
Member (Judicial)
10-7-1987

Index : YES / NO