

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH
ERNAKULAM

Dated Friday the nineteenth day of May, one thousand nine hundred and eighty nine

PRESENT

Hon'ble Shri S.P.Mukerji, Vice Chairman

ORIGINAL APPLICATION No.261/89

K.C.Sreekumaran .. Applicant
Vs.

1. The Collector of Central Excise, Office of the Collector of Central Excise, Central Revenue Building, Cochin. 18.
2. The Deputy Collector (P&E), Office of the Collector of Central Excise, Central Revenue Building, Cochin-18.
3. C.M.Jacob, Inspector of Central Excise, Kottayam Division.
4. R.Narayanan, Egadan, Inspector of Central Excise, Kundara Range.
5. K.K. Johnny, Inspector of Central Excise, Irinjalakuda Sector,
6. B.Vasanthakumari Amma, Inspector of Central Excise, Trivandrum V.Range. ... Respondents

Counsel for the applicant .. Shri PV Mohanan

Counsel for the respondents.. Shri PV Madhavan Nambiar Sr.CGSC.

O R D E R

Shri S.P.Mukerji, Vice Chairman

I have heard the learned counsel for both the parties and have gone through the documents carefully. In this application the applicant seeks redress to his not being posted as Inspector of Air Customs at the Trivandrum International Airport. It

may be made clear at the outset that posting at the Airport is not a posting on promotion but in the same grade which the applicant is holding at present. The learned counsel for the respondents who appeared before me today after getting instructions from the respondents indicated that the applicant was also considered for the aforesaid posting but since disciplinary proceedings were contemplated, the Selection Committee did not include his name amongst the Inspectors found fit to be posted at the Airport. The impugned order of the posting was passed on 24.4.89. It has now been revealed that the charge sheet has been served on the applicant on 11.5.89. A copy of the charge-sheet has been produced by the learned counsel for the applicant before me. The charge-sheet reveals that the applicant had been found remiss in his failure to intimate under the relevant Conduct Rules the fact of his having received as gifts and otherwise certain shares and cheques in relation to some of the ancestral property of the father.

2. The learned counsel for the applicant has argued that since the charge-sheet was served on him on 11.5.89 and the order of posting excluding his name was passed on 24.4.89 he should not have been considered unfit for the posting on 24.4.89. In that connection he has quoted the ruling of the Full Bench of this Tribunal in accordance with which unless the charge-sheet is served, a Government servant has to be considered at par with others in the matter of promotion and crossing of Efficiency Bar.

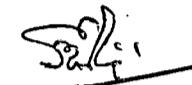
3. I have given careful consideration to the various

aspects of this case. I am clear in my mind that the ruling of the Full Bench of the Tribunal is not applicable in this case as this is a case of posting and not of promotion. The administrative authority has the prerogative of deciding who should be deployed where, keeping in view the entire conspectus of circumstances of each case. Even though the charge-sheet was served on 11.5.89, on 24.4.89 certain investigation ^{rightly} and correspondence had been under way which might have weighed with the Selection Committee in excluding the applicant's name in the list of Inspectors found fit for posting at the Airport.

4. I have however the feeling that on 24.4.89 the investigations had not even taken a shape of charge-sheet and the Selection Committee could have been unduly swayed against the applicant. Now that the charge-sheet has been formulated, it will be only fair to the applicant that his case is reconsidered by that Selection Committee taking into account the contents of the charge-sheet and other relevant materials pertaining to the charge-sheet. Nothing more than that can be justified in favour of the applicant only at this stage. I, therefore, allow the application to the extent of directing the respondents to get the case of the applicant reconsidered by the Selection Committee by placing before them the charge-sheet and all other relevant materials and to decide the case of posting

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of the applicant to the Trivandrum Airport on the basis of his seniority and fitness after taking into account such recommendations as the Selection Committee may make in review. I also direct that a decision about the applicant should be taken within a period of one month from the date of communication of this order. There will be no order as to costs.



(S.P. MUKERJI)
VICE CHAIRMAN
19-5-1989

SN.