

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM

O. A. No. 268/89
T. A. No.

199

DATE OF DECISION 16-4-90

Mr NV Vasu & V Korukutty Applicant (s)

Mr PV Mohanan Advocate for the Applicant (s)

Versus
Collector of Central Excise, Respondent (s)

Central Revenue Building,
Cochin-18 and 2 others.

Mr Krishna Kumar, ACGSC Advocate for the Respondent (s)

CORAM:

The Hon'ble Mr. NV Krishnan, Administrative Member.

The Hon'ble Mr. N Dharmadan, Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. To be circulated to all Benches of the Tribunal?

JUDGEMENT

(Shri N.V.Krishnan, Administrative Member)

The first applicant is the General Secretary of the Kerala Customs & Central Excise Group 'D' officers' Association and the second applicant is a Sepoy, Special Customs at Malapuram. They seek a declaration that the 3rd respondent is not entitled to be posted as Sepoy and at Air Customs, Trivandrum and a direction to the first/second respondents to consider the candidates from the Annexure-1 seniority list for appointment as Sepoy, Air Customs.

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The brief facts leading to this application are as follows.

Sepoys and

2. Inspectors of Central Excise are appointed to the Air Customs, Trivandrum for a tenure of one year at a time. The posting does not involve any change in pay but admittedly, it gives greater opportunities for the employees to earn rewards as a result of cases of smuggling detected during their employment. Hence, the appointment to the Air Customs, Trivandrum is fixed for a period of one year at a time and is generally regulated by seniority.

3. The grievance of the applicant, against the 3rd respondent is somewhat peculiar. The 3rd respondent as Lower Division Clerks along with certain other Sepoys, had been promoted on ad hoc basis against vacancies meant for Direct Recruits, some time in 1982. When they were sought to be reverted, they moved the High Court of Kerala in O.P.4050/84 which was disposed of with a direction to the Department to consider their claims for getting absorbed as LDCs. It is on that basis that the 3rd respondent and other Sepoys have been continued as LDCs.

4. The 3rd respondent submitted an application on 2.1.89 for reversion to the cadre of Sepoys on the ground

that his representation for regularisation in the cadre of LDC has not been considered favourably.

His representation was allowed by the Respondents 1 & 2 and he was reverted as Sepoy with effect from 19.4.89 on his request with the stipulation that he will not be considered for promotion for one year.

5. The vacancies in the Air Customs, Trivandrum arose from 5.5.89. As the 3rd respondent was senior enough to be posted there he was appointed to the Air Customs. It is contended that the applicants can not have any grievance in this ~~ground~~ regard.

6. We have perused the records and heard the counsel. Strictly speaking, one cannot find fault with the action of the Government respondents. But, the applicants are also on strong ground when they contend that the 3rd respondent had deliberately chosen an appropriate time to seek reversion to the post of Sepoy so that his name could be considered for appointment to the Air Customs/which, as mentioned above, is a prime job. Obviously, the main objective in seeking reversion was to get a posting in the Air Customs, Trivandrum on top of a long spell on the higher post of LDC. We are not satisfied that the Government respondents were not aware of the real purpose for which the reversion was sought.

7. However, as the tenure of the posting made on 5.5.89 is about to come to an end and as fresh vacancies will arise in May 1990 and postings are to be made, we are of the view that it is not necessary to determine whether the respondent-3 was entitled to be posted to Air Customs, Trivandrum. We have considerable reservations about the manner in which the reversion of the 3rd respondent was allowed without placing any restriction on his appointment to the Air Customs, Trivandrum.

8. In this view of the matter, we dispose of this application with the following directions:

(i) The appointment of the 2nd applicant to the post of Sepoy at Air Customs, Trivandrum should be considered in accordance with law against vacancies which will arise after the expiry of the term of appointment of the 3rd respondent and others like him who were transferred to the Air Customs, Trivandrum by the order dated 5.5.89.

(ii) If other ad hoc LDCs like the 3rd respondent apply for reversion as Sepoy and it appears that the objective is really to secure a posting in the Air Customs shortly, the 1st respondent should consider stipulating a condition that, on reversion the official will not be transferred to the Air Customs, Trivandrum until after the expiry of a reasonable time from the date of reversion.

The application is disposed of with the aforesaid
directions.



(N.Dharmadan)
Judicial Member



(N.V.Krishnan)
Administrative Member

16/4/90