

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

Original Application No. 324 of 2009

Wednesday, this the 27th day of May, 2009

CORAM:

Hon'ble Dr. K.B.S. Rajan, Judicial Member

K.R. Sreekumar, Superintendent of Central Excise,
Air Cargo Complex (UB), Calicut Airport,
Karipur, Malapuram District. **Applicant**

(By Advocate – Mr. C.S.G. Nair)

V e r s u s

1. Union of India, represented by its Secretary,
Department of Revenue, North Block, New Delhi 110001.
2. The Chief Commissioner of Central Excise & Customs,
Central Revenue Buildings, I.S. Press Road, Kochi. 18.
3. The Commissioner of Central Excise, Central Revenue
Buildings, I.S. Press Road, Kochi. 18.
4. The Commissioner of Central Excise & Customs, Central
Revenue Buildings, Mananchira, Kozhikode.
5. The Assistant Commissioner of Customs,
Air Cargo Complex (UB), Calicut Airport,
Karipur, Malappuram District. **Respondents**

(By Advocate – Mr. TPM Ibrahim Khan, SCGSC)

The application having been heard on 27.5.2009, the Tribunal on same day delivered the following:

ORDER

Heard the learned counsel for the parties.

2. According to the applicant he had given his option to be posted as Superintendent at ACC (UB), Calicut in the wake of which he was

originally posted vide Annexure A-4 order dated 28.11.2008. In the said order which relates to only the applicant and none else, there has been no stipulation as to the tenure and that the aforesaid transfer order was issued with the approval of the Chief Commissioner of Central Excise, Kerala. In contradistinction to the above, vide Annexure A-3, the postings at ACC (UB), Calicut of three Superintendents were specifically restricted to six months (without prejudice to the right of the department to transfer them earlier if administrative exigency requires). According to the applicant the conspicuous omission of prescribing a period of six months on his transfer order was on account of the fact that there was an oral assurance by the Commissioner that the applicant's posting to ACC (UB) is like other postings to a new place and that he would not be disturbed at least for a period of two years.

3. The applicant submits that while his expectation was to continue at ACC (UB) Calicut for a period of two years he has been issued with a posting order vide Annexure A-5, whereby he has been posted to Central Excise, Kochi. Immediately the applicant preferred a representation vide Annexure A-6 bringing therein the aforementioned oral assurance by the Commissioner. According to the applicant the aforesaid oral assurance as well as non-stipulation of period of six months was on account of the fact that there is nobody willing for a posting at ACC (UB), Calicut. This representation of the applicant has not so far been responded to.

4. Counsel for the respondents stated that in the case of the applicant since he would be completing six months tenure only by 4th June, 2009, he may not be disturbed before the said date.

5. Taking the above facts into consideration, I am of the considered opinion that, the OA can be disposed of with a direction to the respondents that the respondents at the level of Chief Commissioner should consider the representation dated 23.5.2009 vide Annexure A-6 and arrive at a judicious decision as to whether the applicant under the circumstances explained in

Annexure A-6 should be transferred or not from ACC (UB) Calicut. The grounds raised in this OA may also be taken as supplement to the representation of the applicant. Respondents are directed to consider the above representation of the applicant along with the grounds in the OA as part of representation and arrive at a decision. Till such time such a decision is taken, the applicant shall not be relieved from his duty at ACC (UB), Calicut.

6. Mr. Mathew Philip, Inspector, Central Excise, Kochi who has been present here to assist the counsel for respondents has been directed to inform the concerned authorities about the present order passed by this Tribunal so that no precipitative action could be taken in respect of the transfer of the applicant.

7. In view of the above, the OA stands disposed of.



(K.B.S. RAJAN)
JUDICIAL MEMBER

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