

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM

O. A. No.  
~~XXXXXX~~ 356/90

1990

DATE OF DECISION 8.5.90

N. Sundaresa Pai and Another ~~and~~ <sup>Another</sup> Applicant (s)

M.R. Rajendran Nair Advocate for the Applicant (s)

Versus

Collector of Central Excise and Another Respondent (s)

Abul Hassan, ACGSC Advocate for the Respondent (s)

CORAM:

The Hon'ble Mr. S.P. Mukerji, Vice Chairman

The Hon'ble Mr. A.V. Haridasan, Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement? NO
2. To be referred to the Reporter or not? NO
3. Whether their Lordships wish to see the fair copy of the Judgement? NO
4. To be circulated to all Benches of the Tribunal? NO

JUDGEMENT

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

We have heard the learned counsel for both the parties, and gone through the documents carefully. In this application filed under Section 19 of the Administrative Tribunals Act, the two applicants who had been working previously as adhoc LDCs under the Collector of Central Excise and were reverted to their original cadre of Sepoy on 31.10.89 (Annexure-VI) and 28.3.90 (Annexure-VIII) as Sepoys are seeking consideration for being posted to the Trivandrum Airport. They have also challenged the Annexure-I order dated 2.5.90 whereby

the respondents have indicated that those Sepoys who have been working as LDCs since 1981/1982 and have been reverted as Sepoys will have to work for atleast two years as Sepoys before they are considered for posting to the Airport. The respondents have taken the stand in their reply in connected case O.A. 346/90 that the impugned order dated 2.5.90 prescribing two years of service as Sepoy after reversion before they are considered for posting in the Airport was passed on the basis of the judgment of this Tribunal dated 16.4.90 in O.A. 268/89. We are satisfied that the judgment of this Tribunal dated 16.4.90 commended the prescription of a cooling off period only in those cases where the reversion was effected or sought after 16.4.90 i.e., after the delivery of the judgment. We are also satisfied that promotion as LDC on an adhoc basis cannot in equity deprive the applicants of their rights to be considered for being posted at the Airport on the basis of their seniority-cum-suitability. The operative portion of the impugned order dated 2.5.90 at Annexure-I also does not refer to adhoc LDCs. ~~Prima facie~~ therefore, we do not find any reason to deny the applicants<sup>the</sup> consideration of being posted at the Trivandrum Airport. It has also transpired that one Shri Sugunan who was reverted as Sepoy alongwith

.3.

the first applicant as per Annexure-VI has since been posted to the Airport vide Annexure-VII. This makes it all the more necessary the applicants before us should also be considered for posting at the Trivandrum Airport.

2. In the facts and circumstances we close this application with the direction to the respondents that the applicants before us should also be considered for posting at the Trivandrum Airport in accordance with law. The impugned order dated 2.5.90 will not apply in so far as the applicants in this case are concerned who were reverted before 16.4.90. There will be no order as to costs.



(A.V. Haridasan)  
Judicial Member



(S.P. Mukerji)  
Vice Chairman

8.5.90

Kn.