

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No.386/96

Tuesday, this the 2nd day of July, 1996.

C O R A M

HON'BLE MR JUSTICE CHETTUR SANKARAN NAIR, VICE CHAIRMAN
HON'BLE MR PV VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

1. KR Sasikumar, Senior Accountant,
Central Excise Commissionerate,
CR Building, IS Press Road,
Cochin--682 018.
2. VP Radhakrishnan, Senior Accountant,
Central Excise Commissionerate,
CR Building, IS Press Road,
Cochin--682 018.

....Applicants

By Advocate Smt Sumathi Dandapani.

vs

1. Union of India represented by
Secretary, Ministry of Finance,
New Delhi.
2. The Chairman,
Central Board of Excise & Customs,
North Block, New Delhi.
3. The Principal Chief Controller of Accounts,
Central Board of Excise & Customs,
1st Floor, AGCR Building, New Delhi--2.
4. The Commissioner of Central Excise & Customs,
CR Building, IS Press Road, Kochi-682 018.
5. The Pay & Accounts Officer,
Customs, Kochi.

....Respondents

By Shri TPM Ibrahim Khan, Sr Central Govt Standing Counsel.

The application having been heard on 27th June, 1996,
the Tribunal delivered the following on 2nd July, 96:

O R D E R

PV VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

Applicants, working in the Pay and Accounts Office, Central
Excise, Cochin, are aggrieved by A-2 order dated 21.3.96 by which

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field Pay and Accounts Officers under the Principal Chief Controller of Accounts, Central Board of Excise & Customs have been declared Heads of Office and Drawing and Disbursing Officers with effect from 1.4.96 in respect of all the staff working in the respective Pay and Accounts Offices. The order also directs that a separate budget be provided for each Pay and Accounts Office under certain new Heads of Accounts. Pay and Accounts Officers (Heads of Office) were also declared controlling officers for the staff working in the field Pay and Accounts Office. The impugned order is challenged on the ground that it was an administrative order which could not amend a scheme for departmentalisation of accounts which had statutory status. It is also alleged that there was no reason to change the system which had been functioning smoothly for over twenty years with the powers being exercised by the respective Commissionerates and that it will be difficult to administer the small units of about 25 employees from Delhi, resulting in delays in sanctioning of conveyance allowance, claim of medical allowance, house building advance, motor conveyance advance etc.

2. Respondents have stated in their elaborate reply that the Pay and Accounts Offices were created in 1976 as a result of a decision of the Central Government to departmentalise the accounts of Central Ministries. The disciplinary and appellate powers under the Central Civil Services (Classification, Control & Appeal) Rules, 1965 are exercised by the Principal Chief Controller of Accounts and his subordinate officers in respect of staff in the Pay and Accounts Offices which are self-contained units. The Commissionerates were hitherto allowed to exercise powers of Heads of Office in relation to some establishment matters like drawal of pay and allowances, grant of advances etc, even though the Principal Chief Controller of Accounts and his subordinate officers were the Heads of Departments/Heads of Office of the staff working

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in the Pay and Accounts Office in relation to all administrative matters. This arrangement gave rise to serious problems with certain complaints that the Commissionerates were not adequately looking after the day to day needs of the accounts offices and in order to remedy the situation, the powers of Head of Office/Drawing and Disbursing Officer were delegated to the local Pay and Accounts Officers. Such delegation is in accordance with the Delegation of Financial Power Rules, 1978 and the General Financial Rules, 1964. Respondents have also stated that the service conditions of employees working in the Pay and Accounts Office have not been adversely affected in any manner by the impugned order. In fact, the impugned order is beneficial to the employees since their claims will be settled by the officer under whom they are working, i.e., the Pay and Accounts Officer, without having to refer the matters to Commissionerate. Respondents have also stated that excepting the Commissionerate at Cochin, all other Commissionerates in the country have welcomed the delegation of powers to the Pay and Accounts Officers. The All India Civil Accounts Employees Association has also welcomed the decision. Respondents have stated that adequate arrangements have been made to ensure that no delay will occur as a result of the delegation in sanctioning payment of advances like General Provident Fund advances, Scooter Advances etc. According to respondents, the powers of Head of Department were delegated to Pay and Accounts Officers quite some time back in all Central Government Departments including Central Board of Direct Taxes and the only exception had been the Central Board of Excise & Customs. By the impugned order, the Central Board of Excise & Customs has also been brought in line with all other Departments of the Government of India. Respondents have categorically stated that the staff of the Pay and Accounts Office

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is not under the administrative control of the Commissioner concerned and that the staff belong to a separate service, namely, Central Civil Accounts Service, which is distinct from the service of the Commissionerate and is under the administrative control of the Principal Chief Controller of Accounts and not that of the Commissioner.

3. Though applicants have referred to various paragraphs in the scheme for departmentalisation of accounts, the scheme has not been produced before us and it is not possible for us to ascertain whether the scheme referred to is statutory or not. Respondents have denied the allegation that the scheme of departmentalisation of accounts was framed under the departmentalisation of Union Accounts (Transfer of Personnel) Act, 1976. It is, therefore, not possible to accept the main contention of applicants that a statutory order has been amended by an administrative instruction (A-2). Respondents have given detailed reasons for amending the administrative procedure by delegating the powers of Heads of Office/Drawing and Disbursing Officer to the Pay and Accounts Officers and have stated that this only brings the Central Board of Excise & Customs in line with that of the other Departments of Government of India, where the scheme has been working already for several years. The ground advanced by applicants that this might result in delays, is not a ground on which an administrative action can be quashed, especially when respondents have stated that adequate arrangements have been made to avoid delays. In any case, applicants have not brought out any legal rights that they have which have been encroached on by the impugned order nor have they established that the impugned order in any way adversely affects statutory service conditions. We do not see anything unreasonable or arbitrary in the impugned order which would attract judicial intervention.

4. That apart, the impugned order has been issued purely in exercise of administrative powers related to the mode of functioning and structure of the office of the Principal Chief Controller of Accounts of the Central Board of Excise & Customs. It is clearly in the nature of a policy decision and it is well settled that in matters of policy, Courts do not intervene unless there is any mala fide or arbitrariness or unconstitutionality in the administrative action. For a detailed discussion, see Tata Cellular vs Union of India, (1994) 6 SCC 651, paragraphs 71 to 94. At paragraph 77, it is stated:

"The duty of the court is to confine itself to the question of legality. Its concern should be:

1. Whether a decision-making authority exceeded its powers?
2. Committed an error of law,
3. committed a breach of the rules of natural justice,
4. reached a decision which no reasonable tribunal would have reached or,
5. abused its powers.

Therefore, it is not for the court to determine whether a particular policy or particular decision taken in the fulfilment of that policy is fair. It is only concerned with the manner in which those decisions have been taken. The extent of the duty to act fairly will vary from case to case. Shortly put, the grounds upon which an administrative action is subject to control by judicial review can be classified as under:

- (i) Illegality: This means the decision-maker must understand correctly the law that regulates his decision-making power and must give effect to it.
- (ii) Irrationality, namely, Wednesbury unreasonableness.

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(iii) Procedural impropriety.

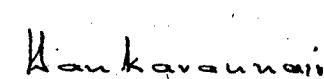
The above are only the broad grounds but it does not rule out addition of further grounds in course of time. As a matter of fact, in R v Secretary of State for the Home Department, ex Brind, (1991) 1 AC 696, Lord Diplock refers specifically to one development, namely, the possible recognition of the principle of proportionality. In all these cases the test to be adopted is that the court should, "consider whether something has gone wrong of a nature and degree which requires its intervention".

Applying this test, we do not see any reason to quash the impugned order.

5. In the light of the above discussion, we do not see any merit in the application. The application is accordingly dismissed. No costs.

Dated the 2nd July, 1996.


PV VENKATAKRISHNAN
ADMINISTRATIVE MEMBER


CHETTUR SANKARAN NAIR (J)
VICE CHAIRMAN

LIST OF ANNEXURE

1. Annexure A2: True copy of order (Letter) No.E.II/95-96/1(1)/01 dated 21.3.96 to the 5th respondent by the Deputy Controller of Accounts(Administration).

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