

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH

O.A. No.

198

T.A. No.

11/88.

DATE OF DECISION 6.10.1989.Shri P.S. Bora

Petitioner

Advocate for the Petitioner(s)

Versus

The Collector of Customs & Ors. RespondentShri M.I. Sethna

Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. M.B. Mujumdar,
Member (J).

The Hon'ble Mr. M.Y. Priolkar,
Member (A)

1. Whether Reporters of local papers may be allowed to see the Judgement ? Yes
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. Whether it needs to be circulated to other Benches of the Tribunal ? No

(10)

Central Administrative Tribunal
New Bombay Bench
New Bombay

Transferred Application No. 11/88.

Shri P.S. Bora,
Khatau Chawl No. 4/3,
B.J. Marg, Byculla,
BOMBAY - 400 027.

Valayadan Nagappan,
Flat No. 1317, Sec. IV,
C.G.S. Colony, Antop Hill,
BOMBAY - 400 037.

... Applicants.

V/S

Union of India,
Through Ministry of Law,
Justice and Company Affairs,
Aayakar Bhavan, Marine Lines,
BOMBAY - 400 002.

The Collector of Customs,
New Customs House, Ballard Estate,
BOMBAY - 400 038.

The Central Board of Excise
and Customs,
NEW DELHI.

The Collector of Central Excise,
Poona Collectorate,
POONA.

... Respondents.

Coram: The Hon'ble Member(J), Shri M.B. Mujumdar.

The Hon'ble Member(A), Shri M.Y. Priolkar.

Appearance:

Shri P.S. Bora,
in person.
Shri S.P. Singh,
Vice-President of the
Officers Association
of Customs Marine
Organisation.
Mr. M.I. Sethna,
Counsel for the
respondents.

ORAL JUDGMENT:-

Date: 6.10.1989.

(Per M.B. Mujumdar, Member(J))

This Writ Petition was filed in the High Court of Judicature at Bombay by Shri P.S. Bora and Shri Valayadan Nayappan for themselves and on behalf of other employees recruited in Customs Marine Organisation who were similarly

placed like them.

2. The petitioners had filed a separate petition in the High Court for permitting them to file the petition in a representative capacity. Under Order I Rule 18 of the Civil Procedure. Though there is no order granting permission in the order sheet, we are told by petitioners No. 1 Shri P.S. Bora and Shri S.P. Singh, Vice-President of the Officers Association of Customs Marine Organisation, Bombay Collectorate, Bombay that a public notice was published in the Times of India and Navbharat Times. The petition is transferred to this Tribunal under Section 29 of the Administrative Tribunals Act 1985 by order of the High Court dated 21.8.1987.

3. The petitioners have made two prayers in the petition. The first is for directing the respondents to make them and all similarly placed employees of Customs Marine Organisation permanent in their respective posts in accordance with the directions contained in Circulars dated 15.11.1979 and 17.8.1982 at Exhibits 'F' & 'H', respectively. The second prayer is for directing the respondents to fix the seniority of all the employees of the Customs Marine Organisation for all purpose including pension benefits, after taking into account the entire service ^{rendered} referred by them in defence service, before opting to serve under the Customs Marine Organisation, in accordance with the circulars dated 4.12.1959, 1.6.1963 at Exhibits 'C' & 'D', respectively.

4. The respondents have not filed their reply though they were permitted on different dates to file their reply.

5. However, we have just now heard petitioner No. 1 P.S. Bora, and Mr. S.P. Singh and Mr. M.I. Sethna, Learned Counsel for the respondents. Mr. Sethna stated that though the reply was drafted it was not filed because the matter was under consideration.

6. Mr. Sethna produced a copy of the letter dated 5.9.1989 from the Under Secretary to the Government of India, in the Ministry of Defence, Department of Revenue which reads as under:-

" To,

The Director,
Directorate of Preventive
Operations, (Customs and
Central Excise), Lok Nayak
Bhawan, Khan Market,
NEW DELHI - 110 003.

Subject:- Conversion of temporary
posts into permanent ones
in the Customs Marine
Organisation Sanction
regarding -

Sir,

I am directed to refer to your letter F. No. 203/4/DPO Vol(VI), dated 30.6.1989 on the above subject and to say that in terms of DOP & T's Order O.M. No. 18011/1/86-Estt(D), dated 28.3.1989 circulated by this Department's under circular letter No. 12/81/88-Coord dated 25.4.1988, it is not necessary to have permanent posts for confirming an Officer appointed in temporary capacity. According to these instruction, confirmation of an officer should be made once in his service in the initial entry grade subject to condition laid down therein.

The case of these temporary Marine Officers may be examined in the light of these instructions.

Yours faithfully,

sd/-
(S.P. KUNDU)
Under Secretary to the Govt. of India."

Neither petitioner No. 1 nor S.P. Singh was aware of this letter. Hence a copy of this letter was given to them by Mr. Sethna just now. After going through the letter both of them stated that they have no objection if some time is given to the respondents to comply with the directions given in the letter and this petition is disposed of. Hence we pass the following order:-

Respondents are directed to carry out the instructions in the letter dated 5.9.1989 from the Under Secretary to the Government

of India, in the Ministry of Finance, Department of Revenue so far as the petitioners and employees similarly situated like them are concerned, within four months from the date of receipt a copy of this order. If the petitioners or employees similarly situated like them, will be aggrieved by the orders which may be passed while carrying out the instructions in the letter, they will be at liberty to approach this Tribunal afresh by filing an application under Section 19 of the Administrative Tribunals Act. With these directions the petition is disposed of with no order as to costs.

Y
(M.Y. PRIOLKAR)
MEMBER (A).

W
(M.B. MUJUMDAR)
MEMBER (J).