CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

ORIGINAL APPLICATION NO.: 723/99, 724/99, 725/99 AND 726/99.

Dated this Wednesday, the 16th day of February, 2000.

Shri M. I. Agrawal & 3 Others — Applicants.

Shri S. N. Pillai, — Advocate for the Applicants.

VERSUS

Union Of India, — Respondents.

Shri M. I. Sethna alongwith Shri V. D. Vadhavkar, — Advocate for the Respondents.

CORAM : Hon'ble Shri B. N. Bahadur, Member (A).

(i) To be referred to the Reporter or not ?

(ii) Whether it needs to be circulated to other Benches of the Tribunal ? } No

(iii) Library.

(B. N. BAHADUR)
MEMBER (A).

os*

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

ORIGINAL APPLICATION NOS.: 723/99, 724/99,
725/99 AND 726/99.

Dated this Wednesday, the 16th day of February, 2000.

CORAM : Hon'ble Shri B. N. Bahadur, Member (A).

Mr. A. I. Agrawal,
Superintendent,
Central Excise,
Residing at -
605, Shantivan, III-B,
Raheja Township,
Malad (East),
Bombay - 400 097. ... Applicant in O.A. No. 723/99.

Mr. S. R. Dastane,
Superintendent,
Central Excise.
Residing at -
1, Sadhana Apartments,
Near Sidheswar Lane,
Paranaka, Kalyan,
Dist. Thane. ... Applicant in O.A. No. 724/99.

Mr. R. S. Singh,
Superintendent,
Central Excise.
Residing at -
241-6259, Devgiri,
Pant Nagar,
Ghatkopar East,
Bombay - 400 075. ... Applicant in O.A. No. 725/99.

Mr. R. A. Valvi,
Superintendent,
Central Excise.
Residing at -
A-402, Gill Haze,
Lourdes Colony, Orlem,
Malad (West),
Bombay - 400 097. ... Applicant in O.A. No. 726/99.

(By Advocate Shri S. N. Pillai)

VERSUS

...2

Union of India through
The Chief Commissioner of
Central Excise, Mumbai,
New Central Excise Building,
115, M. K. Road, Churchgate,
Bombay - 400 020. ... Respondents in all the 4 O.As.

(By Advocate Shri M. I. Sethna
alongwith Shri V. D. Vadhavkar)

OPEN COURT ORDER

PER : SHRI B. N. BAHADUR, MEMBER (A).

The Learned Counsel Shri S. N. Pillai for the applicants and Shri M. I. Sethna, ~~alongwith Shri V. D. Vadhavkar~~ for the respondents are before me in this O.A. At the outset it is admitted on both sides that the other three O.As. listed today, namely - O.A. Nos. 724/99, 725/99 and 726/99, are identical. We are, therefore, taking them up jointly for disposal at the stage of admission, since the facts are simple.

2. I have seen the O.A. and the reply filed, and I have heard the Learned Counsel on both sides. It is the prayer of the applicant in O.A. No. 723/99 that the Respondents should be directed to follow the policy guidelines laid down by the respondents vide letter dated 27.11.1997 (Annexure A-1), while ordering transfer of staff. It is also prayed that respondents may be directed not to transfer any of the officers who is junior in age to the applicant, to the place of his/her choice until and unless the applicant is transferred to any of the places of his choice in accordance with the policy guidelines in the aforesaid Annexure A-1.

...3

It is also prayed that a direction be issued to the respondents to transfer the applicant to any of the places of his choice with immediate effect in accordance with the guidelines in the transfer policy.

3. It is seen that there is no particular order that is impugned in the O.A., nor is there any action of respondents cited to show that the applicant is 'aggrieved'. The Learned Counsel for the applicants, however, strenuously contented that policy guidelines will not be followed and and this is itself a matter on which the applicants are aggrieved. He stated that in the O.A. itself, he has given specific names where people have been transferred and where they are junior in age as well as in service. I have carefully considered all arguments made by the Learned Counsel for applicants/+ respondents.

4. On the very face of the facts, and the nature of the relief prayed for, it is clear that the application is devoid of merits, considering it in the background of the well-settled law in regard to the powers of the Tribunals in matters relating to transfer, as settled by the Hon'ble Apex Court. In the first place, there is no specific act of grievance or impugned order. Secondly, there is perhaps only an apprehension that transfers will not be made in the future in fairness to applicants. Clearly, apprehension cannot be a basis for seeking direction, specially in such matters. The type of relief asked, as contained in para 8 of O.A. and as above in para (2), are in the nature of a total demand for a transfer in

...4

accordance with the wishes of the applicants. I have perused the general guidelines as annexed to the O.A. at Annexure A-1 by the applicants themselves. The basic preamble of the guidelines relates to the need for every employee to have adequate opportunity of exposure to different aspects of work dealt with by the Department of Excise & Customs through its field formations. Thus, the point made is that rotation is necessary in the public interest and in the interest of the concerned officials. There is a mention at para C-1 of the Annexure A-1 to the effect that the administration should endeavour to post an employee to a place closer to his place of residence, if it is possible to do so. The procedure thereafter has been outlined. This also is covered by the phrase "if it is possible to do so" and therefore, cannot create any right. In any case, all other points regarding preference to old age, etc. are also indicated only "if possible". also stressed by learned Counsel for applicant

5. In the reply filed by the respondents, which is being depended upon by the Learned Counsel for the respondents, it is stated that the applications are totally misconceived, and not maintainable and amounting to abuse of the process of law. It is stated that the transfers referred to are within the city of Mumbai and ought not to be a subject of grievance even otherwise. The point relating to limitation of Tribunals as per law settled by the Supreme Court has been mentioned.

6. It is clear from the discussions made above by us that there is no case made out before us for any grievance by the applicants. They are asking for transfer

virtually as per their wishes, through misplaced dependance of the guidelines issued. In any case, while they are free to make representation to the respondent Department, no rights can accrue through judicial intervention. The point made by the respondents, as mentioned above in gist, have valid force, and this Tribunal respectfully adheres to the law settled by the Hon'ble Supreme Court.

7. In consequence, there is no ground for interference in this case. Similarly, as the other cases, namely - O.A. Nos. 724/99, 725/99 and 726/99 are admittedly identical, there are no grounds for interference in them either.

8. Consequently, O.A. Nos. 723/99, 724/99, 725/99 and 726/99 are hereby rejected at the admission stage. It is clarified that if there is any specific transfer order in future, which can be perceived to be against the rightful interest of the applicants in these four O.As., they shall be at liberty to take recourse to the provisions of law. No order as to costs.

Bn Bahadur

(B. N. BAHADUR)
MEMBER (A).

os*