

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH  
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Commercial Complex(BDA)  
Indiranagar  
Bangalore - 560 038

Dated : 2 MAR 1989

APPLICATION NO (S) 110 / 89(F)

W.P. NO (S) \_\_\_\_\_

Applicant (s)

Respondent (s)

Shri M. Ramadas

V/s

The Secretary, M/o Finance, New Delhi & another

To

1. Shri M. Ramadas  
Assistant Collector of Customs  
& Central Excise  
Headquarters (Preventive)  
Office of the Collector of  
Central Excise  
Central Revenue Building  
Queens Road  
Bangalore - 560 001

2. Shri S. Vasantha Kumar  
Advocate  
9/1, R.V. Shetty Layout  
Seshadripuram  
Bangalore - 560 020

3. The Secretary  
Ministry of Finance  
Department of Revenue  
North Block  
New Delhi - 110 001

4. The Collector of Central Excise  
Central Revenue Building  
Queens Road  
Bangalore - 560 001

5. Shri M.S. Padmarajiah  
Central Govt. Sng Counsel  
High Court Building  
Bangalore - 560 001

Recd Ino copies.

*Sent to*  
3-3-89.  
Adm. in Appr'l.

Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith a copy of ORDER/~~STAY~~/~~INTERIM ORDER~~  
passed by this Tribunal in the above said application(s) on 22-2-89.

Received the order copy meant for  
Collector of Central Excise, Bangalore.

Encl : As above

DEPUTY REGISTRAR  
(JUDICIAL)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH, BANGALORE.

DATED THIS THE TWENTY SECOND DAY OF FEBRUARY 1989

Presents: Hon'ble Shri Justice K.S.PUTTASWAMY .. VICE CHAIRMAN

Hon'ble Shri L.H.A.REGO .. MEMBER(A)

APPLICATION NO. 110/89(F)

M.Ramadas,  
Asst. Collector of Customs  
and Central Excise  
Headquarters(Preventive)  
Office of the Collector of  
Central Excise,  
Central Revenue Buildings,  
Queens Road,  
Bangalore 560 001.

.. Applicant

(Shri S.Vasantha Kumar .. Advocate)

vs.

1. The Secretary,  
Union of India,  
Ministry of Finance,  
Dept. of Revenue,  
North Block,  
New Delhi 110 001.

2. The Collector of Central Excise,  
Central Revenue Buildings,  
Queens Road,  
Bangalore 560-001.

.. Respondent

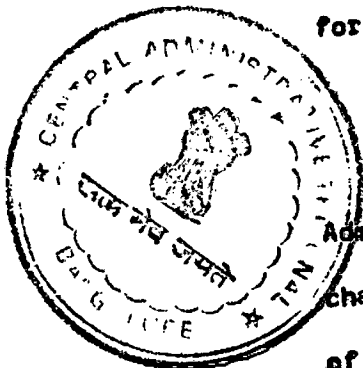
(Sh. M.S.Padmarajaiah.. Advocate)

This application has come up today before this Tribunal  
for Orders. Hon'ble Vice Chairman made the following:

ORDER

In this application made under Section 19 of the  
Administrative Tribunals Act, 1985 (the Act), the applicant has  
challenged office order No.40/1988 dated 29.4.1988 (Annexure C)  
of Government of India in so far as it relates to his transfer  
from Bangalore to Calcutta.

..2/-



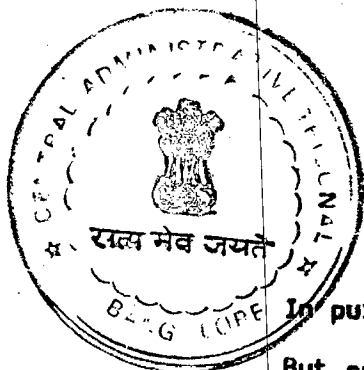
2. Shri M. Ramadas, the applicant before us, who joined in a lower cadre in the Central Excise Department, was promoted on 27.9.1982 as Assistant Collector of Central Excise in which capacity he has been functioning at Bangalore from 19.12.1983. In the general transfers made on 29.4.1983 concerning 124 Assistant Collectors of the Department, Government had transferred the applicant from Bangalore to Calcutta with a direction that all of them should get themselves relieved and report for duty at their new places by 31.5.1988.

3. On receipt of the aforesaid order of Government, the applicant, by his representation dated 2.5.1988, renewed on 1.6.1988, moved Government through the Collector of Central Excise, Bangalore (the Collector) for modifying the same and retaining him at Bangalore. On that, the Collector made a favourable recommendation which was rejected on 18.8.1988 by the Central Board of Excise and Customs (the Board). But notwithstanding the same the applicant renewed his representations on which the Collector again recommended his case to Board. On them the Board, by its telex message dated 17.10.1988 addressed to the Collector directed thus:

" Reference your d.o. letter No. 11/3/40/88 A2 dated 16.8.1988 regarding Shri Ramadas A.C.(.) Board approved retention of Shri M. Ramadas upto 31.12.88 in Bangalore Collectorate(.)"

In pursuance of this order the applicant continued at Bangalore. But on or before 31.12.1988 also the Collector did not communicate this order and relieve him on 31.12.1988 as he should have normally done.

4. Even after 1.1.1989, the applicant continued to work at Bangalore and then proceeded on leave from 9.1.1989 to 15.2.1989. While on such leave, the applicant without disclosing



that he was on such leave and asserting that the Collector had orally directed his relief on 31.1.1989, approached this Tribunal on 30.1.1989 challenging the order dated 29.4.1988 of Government with an interim prayer which reads thus:-

"to pass an interim order to refrain the 2nd respondent from relieving the applicant in pursuance to the impugned order of his transfer made by the 1st respondent in F.No.A.22012/34/88-Ad.II(3) dated 29.4.1988 (Annexure C), pending disposal of the above application, in the interest of justice and equity".

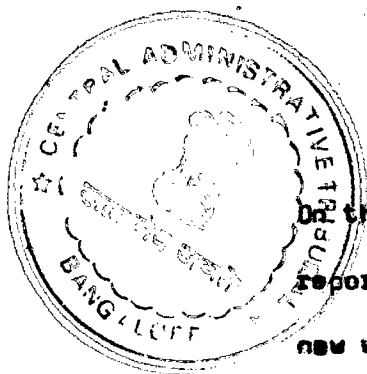
On 31.1.1989, Hon'ble Shri P.Srinivasan admitted this application and made an interim order in these terms:

"Shri Vasanthkumar submits that the Collector of Central Excise and Customs has informed the applicant that he would be relieved today. Shri Vasanthkumar prays that respondents may be restrained from relieving the applicant by interim order. I consider it proper in the circumstances of this case to direct the respondents not to relieve the applicant immediately.

This stay order will be in force till 14.2.1989".

On this interim order, the applicant curtailed his leave and reported for duty on 6.2.1989 at Bangalore office where he is now working ever since then.

5. The applicant has urged a large number of grounds as justifying our interference against his transfer and his retention at Bangalore.



6. In justification of the impugned order, the respondents have filed their reply and have produced their records.

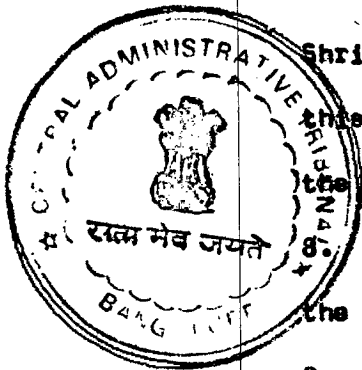
7. In support of the applicant's case, Shri S.Vasanth Kumar his learned counsel formulated three grounds. After we heard him at length on the points formulated by him, necessarily examining the records Shri Vasanthkumar filed ~~a~~ memo signed by him and the applicant who is in court and the same reads thus:

"The applicant in the above case submits that he is willing to be relieved in terms of his transfer order impugned in the above application by the end of April 1989 subject to the final decision of the 1st respondent, Government of India, to be made on his representation for modification of the place of posting, in the interest of justice".

In this memo, the applicant has given up his challenge to the impugned order of transfer and has only sought for time till 30.4.1989 to report for duty at Calcutta if the Board/Government do not modify his transfer on his earlier representations.

Shri Vasanthkumar urges for granting this limited prayer made in this memo. Shri M.S.Padmaraiah opposes the grant of time to the applicant.

8. We have earlier noticed that the transfer made against the applicant on 19.4.1988 had not been given effect to and the Board had even extended time for his relief till 31.12.1988 which also did not materialise and he has continued in service from 1.1.1989 by the action of the Collector and this Tribunal. In these circumstances, we cannot say that the time sought by the applicant, particularly when we have regard to the educational requirements of his children in the mid-scholastic year is unreasonable. We, therefore, consider it proper to grant the time sought for by the applicant.



9. But Shri Padmarajaiah urges that grant of time to the applicant till 30.4.1989 will disrupt the posting of Smt. Janaki Arunkumar now working at Madras who has been posted in the place of the applicant. Shri Padmarajaiah states that Smt. Janaki Arunkumar however has not so far reported for duty at Bangalore. On this it is open to the Collector and his higher authorities to modify suitably the relief of Smt. Janaki Arunkumar from her original post and her posting at Bangalore. On any view this should not seriously weigh with us in granting time to the applicant.

10. In the light of our above discussion, we make the following orders and directions:-

i) We decline to interfere with the impugned order of transfer and dismiss this application to that extent. But this order does not prevent Government from granting the request of the applicant and modifying its order if it so decides.

ii) But notwithstanding our earlier order at sub para (1) of this para, we grant time to the applicant to continue at Bangalore till 30.4.1989 only.

iii) We direct respondent no. 2 to relieve the applicant on 30.4.1989 without fail and thus enable him to report for duty at Calcutta or at such other place to which he may be posted by Government.

11. Application is disposed of in the above terms. But in the circumstances of the case we direct the parties to bear their own costs.



TRUE COPY

*[Signature]*  
DEPUTY REGISTRAR (JD)  
CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE

VICE CHAIRMAN *[Signature]*

*[Signature]*  
MEMBER(A) - 12.2.1989