

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH

3

O.A. NO: 506/92 199
T.A. NO:

DATE OF DECISION 16.7.1992

SHRI ANIL BHAVE Petitioner

SHRI S.V.R. MURTHY Advocate for the Petitioners

Versus

CENTRAL EXCISE AND CUSTOMS BOARD Respondent
AND ORS.

SHRI RAMESH DARDA Advocate for the Respondent(s)

CORAM:

The Hon'ble Mr. JUSTICE S.K.DHAON, Vice-Chairman

The Hon'ble Mr. USHA SAVARA, MEMBER (A)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

N.D

S
(S.K.DHAON)
V/C

mbm*

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH

CAMP AT NAGPUR

ORIGINAL APPLICATION NO: 506/92

Shri Anil Bhave,
S/o Shri Jhamlal Bhave,
Plot No.781, Vaishali Nagar,
Nagpur- 440017 (MS)

...Applicant

V/s

1. The Secretary,
Central Excise and Customs Board

2. The Collector of Central Excise
and Customs, Nagpur Collectorate
Telenkhedi Road, Civil lines,
Nagpur.

3. The Collector of Central Excise,
Bombay-II, Collectorate,
Piramal Chambers, Lalbag,
Parel, Bombay.

.... Respondents

CORAM : HON'BLE JUSTICE MR.S.K.DHAON, Vice-Chairman

HON'BLE USHA SAVARA, MEMBER (A)

Appearance :

Shri S.V.R.Murthy, Adv.
for the applicant.

Shri Ramesh Darda, Adv.
for the respondents.

ORAL JUDGEMENT

16th JUL 1992

(PER : JUSTICE S.K.DHAON, Vice-Chairman)

On or before 10th August 1988, the applicant was working as Inspector Central Excise, Bombay-II Collectorate. On that day, the Dy. Collector (P and E) Nagpur passed an order transferring him in the same capacity to the Collectorate Nagpur at Inter-Collectorate transfer. Thereafter, the applicant joined at Nagpur and even now he is posted there. His grievance is that for the purpose of determining his seniority, the length of the service rendered by him at Bombay is not being taken into account.

2. A counter affidavit has been filed, a rejoinder affidavit too has been filed. Counsel appearing for the parties have been heard.

3. In the order of transfer dated 10th August 1988, there is a reference to Board's letter dated 20.5.1980, a copy of which has been produced by Shri Ramesh Darda and we have perused the same. According to this letter, an Inspector working within the jurisdiction of one Collectorate is not liable to be transferred to the jurisdiction of another Collectorate. It follows that the applicant on or before 10.8.1988 was not holding a transferable post. It is an admitted position that the applicant sought a voluntary transfer from the Collectorate of Bombay to the Collectorate of Nagpur. The Circular dated 20.5.1980 recites that even if an officer or an employee is transferred on compassionate ground from the jurisdiction of one Collectorate to the jurisdiction of another collectorate the same may be permissible subject to certain conditions. One of the conditions enumerated is that the transferee will not be entitled to count service rendered by him in the former Collectorate for the purpose of seniority in the new charge. He will be treated as a new entrant of the Collectorate to which he is transferred and will be placed at the bottom of the list of the temporary employees of the concerned cadre in the new charge. ^{Obviously,} Fundamentally, this condition is being enforced as against the applicant. There can be no getting away from the situation that if the condition is valid and enforceable the applicant has no just ground to stand upon and his grievance if any, has got to be rejected.

4. The learned counsel appearing for the applicant has stated that the said condition is void ab initio. No argument has been advanced in support of this condition. Even on merits, we are satisfied that the contention is ^{not} sound. We have already stated earlier that the post which the applicant was holding at Bombay was not a transferable one and the situation has been created by the applicant himself by seeking a voluntary transfer on compassionate ground. There is no question of violation of article 14 of the constitution and has not been shown to us and that the said condition has not been universally applied by the department.

5. We find no element of arbitrariness in the condition, but for the transfer, which the applicant himself sought, the question of the applicant being transferred to Nagpur would not have arisen. We have ^{also} to hold that the applicant is estopped from questioning the legality of the condition.

6. The applicant is not liable to any relief. The application is rejected. There will be no order as to costs.

Usha Savara
(USHA SAVARA) 6.7.92.
M/A

S.K.Dhaon
(S.K.DHAON)
V/c

srl

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, 'GULESTAN' BUILDING NO.6
PRESCOT ROAD, BOMBAY 1

P R NO. 201/92 IN O.A.NO. 506/92

ANIL BHAVE
Plot no.781, Vaishali Nagar
Nagpur 17

Applicant

Union of India
through Secretary
Central Excise and Customs Board & 2 ors. Respondents

Coram: Hon. Shri Justice S K Dhaon, Vice Chairman
Hon. Ms. Usha Savara, Member(A)

TRIBUNALS ORDER:
(Per: S K Dhaon, Vice Chairman)

DATED: 4-1-93

This is an application seeking the review of our order dated 16.7.92. We had taken the view that since the applicant had sought voluntary transfer on compassionate grounds from the jurisdiction of one Collectorate to another, the services rendered by him in the prior Collectorate will not be taken into account for determining his seniority in the other Collectorate and would be put at the bottom of the list of temporary employees of the concerned cadre in the new charge.

We have perused the contents of the review application. We are satisfied that no apparent error on the face of record exists or to disagree with our order so as to entitle us to invoke Order 47 Rule 1 of Civil Procedure Code.

We are disposing of this review application by adopting the process of circulation which is permissible under the Rules.


(Ms. Usha Savara)
Member(A)


(S K Dhaon)
Vice Chairman