

CERTIFICATE

As per the directions, OA No. ^{105/98}.....has been re-checked by us and there is no pending order of High Court, Supreme Court. for restoration or otherwise and besides that no MP, CP or RA is pending therein.

In case of incorrect information given by us we shall be liable for disciplinary action.

(N. R. Pantaleo)
DL 17/5/12

Shukla
24/6/12
Section Officer *hwt*

NR
Jt. Registrar

CENTRAL ADMINISTRATIVE TRIBUNAL
BENCH AT MUMBAI

ORIGINAL APPLICATION No. 105/1998

Date of Decision: 23/4/98

Shri Karbhari Mistri Dapoli Petitioner/s

Shri P.A.Prabhakaran Advocate for the
Petitioner/s

V/s.

Commissioner of Customs, Pune & Respondent/s
Anr.

Shri M.I.Sethna Advocate for the
Respondent/s

CORAM:

Hon'ble Shri Justice R.G.Vaidyanatha, Vice Chairman.

Hon'ble Shri

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

(2) Whether it needs to be circulated to
other Benches of the Tribunal ?

abp.


(R.G.VAIDYANATHA)
VICE CHAIRMAN

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, 'GULESTAN' BUILDING No.6
PRESCOT ROAD, MUMBAI 400001

ORIGINAL APPLICATION No.105/98

DATED : 23rd APRIL, 1998

CORAM : HON'BLE SHRI JUSTICE R.G.VAIDYANATHA, V.C.

Shri Karbhari Mistri
C/o. P M Pulpule
Near Panchayat Office
Dapoli
(By Adv. Mr. P.A.Prabhakaran) ..Applicant

V/s.

The Commissioner of Customs
Pune, PMC's Commercial Building
Hira Baug, Tilak Road,
Pune 2 & Anor.
(By Adv. V D Vadhavkar, for
Mr. M I Sethna, Senior Central
Government Standing Counsel) ..Respondents

ORDER

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[PER: R.G.Vaidyanatha, Vice Chairman]

1. This is an application challenging the order of transfer. Respondents have filed reply opposing the application and Interim Relief. I have heard Mr. P A Prabhakaran, counsel for the applicant and Shri V D Vadhavkar, for Mr. M I Sethna, Counsel for respondents.

2. The applicant is working as Superintendent, Customs, at Dapoli Custom Division at Dapoli. Now he is under the order of transfer to Ratnagiri Division as per transfer order dated 22.9.97. He has therefore filed this O.A. challenging the transfer.



3. Respondents have filed reply stating the circumstances under which Mr. S B Kokje has been transferred to Dapoli and as a consequence the applicant has been transferred to Ratnagiri Division.

4. From the material available on record and from the arguments addressed before me I find that though the applicant is working at Dapoli his family is residing at Pune. As for as Kokje is concerned he had made an application with the request to post him at Dapoli on the grounds of health and children education etc. Kokje has been promoted and posted to Dapoli and the applicant came to be transferred to Ratnagiri Division. It is purely a case depending upon the facts and circumstances which resulted in departmental transfer of the applicant on administrative grounds. There is nothing to show that the transfer is vitiated by malafide and contrary to the rules. As pointed out by the Apex Court in (1995) 30 ATC 629 [UNION OF INDIA & OTHERS Vs. GANESH DASS SINGH] when the transfer order is made on Administrative reasons it is not within the scope of permissible judicial review in such matters. Similarly in another case reported in (1991)17ATC 935 [SHILPI BOSE (MRS) AND OTHERS Vs. STATE OF BIHAR AND OTHERS] the Supreme Court has pointed out that when a transfer order is issued with a view to accommodate a public servant to avoid hardship, the same cannot and should not be interfered by the court merely because the transfer orders were passed on the request of the employees concerned.



5. After going through the material on record I find that the impugned order is issued in administrative exigencies and does not suffer from any malafide or violation of any rules and therefore no ground is made out for interference with the transfer. Applicant's counsel submitted that since the applicant's family stays at Pune there would be some difficulty for the applicant to shift to Ratnagiri Division and prays that the transfer may be deferred till 31st May, 1998.

6. In the result the O.A. is rejected at the admission stage. The applicant shall not be relieved from the present post at Dapoli till 31st May, 1998. In the circumstances of the case there would no order as to costs.


(R.G.Vaidyanatha)

Vice Chairman