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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

OA.573/92

date of decision : 4-8-1993

Between

P. Radhakrishna Murthy, &
Y.C. Victor Babu : Applicants

and

1. Union of India, rep. by
The Secretary
Min. of Finance
Dept. of Revenue
South Block
New Delhi

2. The Chairman
Central Board of Excise & Customs
South Block
Delhi

3. The Principal Collector
of Customs & Central Excise
South Zone
Madras

: Respondents

Counsel for the applicants : N. Ram Mohan Rao
Advocate

Counsel for the respondents : N.R. Devaraj, SC for
Central Government

CORAM

HON. MR. JUSTICE V. NEELADRI RAO, VICE CHAIRMAN

HON. MR. P.T. THIRUVENGADAM, MEMBER (ADMINISTRATION)

Judgement

(As per order)

V. Neeladri Rao, Vice Chairman)

Heard Sri N. Ram Mohan Rao, learned counsel

applicant and Sri N.R. Devaraj, learned counsel for the
respondents.

2. These two applicants are working as Superintendents
of Central Excise within the Hyderabad Collectorate.

3. Air Customs Pool was constituted by the Finance Mini-
stry in the year 1963 as per order No.F.No.3D(7)61-Ad.IV,

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dated 25-5-1963. Air Customs Pool comprised⁸ different grades of officers including Air Customs Officers Grade-I to Grade IV. The various categories who ~~are drafted to~~ Air Customs Pool ^{over} ~~were drafted to the same~~ by selecting them from amongst the staff in the Customs and Central Excise Departments and their postings at the airports are ordered on a tenure basis. Officers other than ~~Mad~~^a ~~Serachers~~ and Sepoys selected for Air Customs Pool are given overtime allowance, uniform allowance, equipment allowance, and duty allowance. They are also provided with free transport facilities from their respective residence to the airport and vice-versa. ~~For the purpose of~~^{The} selection to Air Customs Pool ~~the officers for Air Customs Pool was~~^{is} exclusively entrusted to the respective zonal Principal Collectors. Hyderabad Collectorate is within the Principal Collectorate, Madras.

4. Till 23-1-1992, selection was made on the basis of ACRs and also interviews. Seventy per cent of marks were allotted on the basis of assessment ^{and personality} ~~as per ACRs~~ while 30% of marks were allotted for knowledge of rules and regulations to be assessed during the interview. It is not in controversy that at the time of selection in December, 1990, these two applicants were selected for Air Customs Pool by the Principal Collector, Madras, and the first applicant was allocated to the International Airport at Delhi while the second applicant was allotted to Calcutta. But before their turn had come, amendment was introduced as per 23-1-92. As per the said memo, selection had to be made only on the basis of ACRs and the interview was dispensed with. It appears that the said amendment was made when the Principal Collector, Bombay, Customs and

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Central Excise expressed his inability to conduct interviews for the selection of officers for Air Customs Pool, as a number of appeals are filed in the said Collectorate^{and} he was not finding time to conduct interviews for selection of Air Customs Officers to Air Customs Pool. Be that as it may, in view of the amendment dated 23-1-1992 the Principal Collector at Madras prepared a fresh list in regard to the remaining vacancies by following the guidelines prescribed in the memo dated 23-1-1992. The said list does not contain the name of the applicants herein. Hence, this OA was filed seeking for a direction to the respondents to appoint these two applicants to the posts of Air Customs Superintendents in the Air Customs Pool of International Airports as per selection list originally published and communicated during December, 1990. Para 4(iv) of letter No.F.A.11019/72/91. Ad.IV, dated 23-1-1992, which is relevant for consideration of this OA reads as under :

"Some officers who had been included in the panels prepared towards the end of 1990 and may have been appointed in the International Airports in Delhi, Calcutta, and Madras. In case, names of such officers are not included in the revised panel for any reason, the case may be separately referred to the Board for final decision."

5. It is manifest from the para 4(iv) referred to above, ~~that only such of the officers who had been included in the panels prepared towards the end of 1990 and who had~~ been appointed in the International Airports in Delhi, Calcutta and Madras were sought to be considered for continuation eventhough their selection was in accordance with the guidelines existing prior to 23-1-1992. The said memo dated 23-1-1992 does not explicitly refer to the preparation of a new panel, by cancelling the earlier panel

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in accordance with the norms prescribed in memo dated 23-1-1992. But the Principal Collector, Madras, felt that para 4 of the memo dated 23-1-92 makes it clear that the earlier panel in regard to the officers who are not yet appointed had to be cancelled and a new panel had to be prepared in accordance with the procedure prescribed in memo dated 23-1-1992.

6. The question that ^{arises} ~~arose~~ is whether any vested right accrues on being included in a panel and if so whether such a panel can be cancelled by a subsequent executive order. ~~Executive order~~ ^{be retrospective} ~~that can issue instructions~~ so as to ~~irrespective of the facts~~ so long as it is not going to affect the vested right of any. It is clear from the material pleadings of the applicant that the employees ^{drafted} ~~provided~~ to the Air Customs Pool are having some benefits. It is not a case of picking and choosing the officers for the said pool. Every employee in the concerned category in Customs and Excise is having a right to opt for the same. So the selection had to be made from amongst those officers, who expressed their willingness. Then, it had to be stated that those who are included in the panel have a vested right.

8. Hence, memo dated 23-1-1992 ^{to the extent it} ~~which~~ implicitly states that the existing panel had to be cancelled cannot be held as valid. ^{As such} ~~Hence~~, the applicants who were selected in accordance with the panel ~~in existence~~ then have to be given appointments to the posts to which they were selected in the Air Customs Pool.

9. As these applicants were already allotted to International Airports at Delhi and Calcutta respectively, it is

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just and proper to direct the respondents to allot the applicants to these airports in the next vacancies which arises for the officers of the zone in which the Principal Collector, Madras, is situated. It had to be made clear that these applicants have to be provided even before appointments are going to be made in regard to officers included as per the panel prepared on the basis of memo dated 23-1-1992.

10. It is stated that the first applicant is going to retire in 1994. It is not clear on the basis of the material placed as to when the vacancy at Delhi arises for the concerned officer of the Southern zone i.e. the zone for which the Principal Collector, Madras, is having control. Hence, it is just and proper to order that in case the vacancy in the International Airport at Delhi does not arise in regard to the post for which the first applicant is selected within ~~the~~ three months from the date of this order, ~~then~~ he may be allotted to vacancy in regard to such post in any other International Airports for which officers

of this category for Air Customs Pool are provided.

11. OA is ordered accordingly. No costs.

P.T. Thiruvengadam
(P.T. Thiruvengadam)
Member (Admn.)

V. Neeladri Rao
(V. Neeladri Rao)
Vice-Chairman

Dated : August 4, 93
Dictated in the Open Court

19/8/93
Deputy Registrar (J)

To

1. The Secretary, Union of India, Min. of Finance, South Block, New Delhi.
2. The Chairman, Central Board of Excise & Customs, South Block, New Delhi.
3. The Principal Collector of Customs & Central Excise, sk South Zone, Madras.
4. One copy to Mr. N. Pammohan Rao, Advocate, CAT. Hyd.
5. One copy to Mr. N. R. Devraj, Sr. CGSC. CAT. Hyd.
6. One copy to Library, CAT. Hyd.
7. One spare copy

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COMPARED BY

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APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

✓
THE HON'BLE MR. JUSTICE V. NEELADRI RAO
VICE CHAIRMAN

AND

THE HON'BLE MR. A. B. GORTHY : MEMBER (A)

AND

THE HON'BLE MR. T. CHANDRASEKHAR REDDY
MEMBER (JUDL)

AND

THE HON'BLE MR. P. T. TIRUVENGADAM : M(A)

Dated: 4-8-1993

~~ORDER~~/JUDGMENT:

M.A/R.A/C.A.No.

in

O.A.No. 573/92.

T.A.No. (W.P.)

Admitted and Interim directions
issued.

Allowed

Disposed of with directions

Dismissed

Dismissed as withdrawn

Dismissed for default.

Rejected/Ordered

No order as to costs.

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