

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

HYDERABAD BENCH : AT HYDERABAD

OA 1368/93.

Dt. of Order: 3-11-93.

R.Siva Rami Reddy

Vs.

...Applicant

1. The Union of India, rep. by the Secretary, Ministry of Finance, Department of Revenue, Secretariat, New Delhi.
2. The Collector-I, Central Excise & Customs, Hyderabad Collectorate, Basheerbagh, Hyderabad.
3. The Dy. Collector (P&V), Central Excise & Customs, Hyderabad Collectorate, Basheerbagh, Hyderabad.
4. The Asst. Collector, Central Excise, Cuddapah Divn., Cuddapah.

...Respondents

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Counsel for the Applicant : Shri B.Nalini Kumar

Counsel for the Respondents : Shri N.R.Davraj, Sr.CGSC

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CORAM:

THE HON'BLE JUSTICE SHRI V.NEELADRI RAO : VICE CHAIRMAN

THE HON'BLE SHRI R.RANGARAJAN : MEMBER (ADMN.)

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....2.

[Signature]

5. When we passed the order on 19.10.1993, it is only on the basis that the present Collector has to take a ~~destitute~~ ^{dispassionate} view in the matter by applying his mind in regard to the circumstances under which the order dated 30.4.1993 was issued and if he feels that there was no justification for ~~issuing~~ ^{drawing} that transfer order, he has to consider on the basis of the guidelines in regard to the transfer as to whether the transfer order dated 30.4.1993 has to be allowed to be continued. Any how, it is clear that he had not applied his mind in regard to the circumstances under which the order dated 30.4.1993 was passed. It is necessary to set-aside the order dated 29.10.1993 of the Collector-I as he did not apply his mind in pursuance of the order dated 19.10.1993 in OA 473/93.

6. Shri N.R.Devaraj submitted that when the applicant had not handed-over the charge on 29.10.1993, Shri Srinath, Superintendent (Technical), Cuddapah assumed the additional charge. As we are setting aside the impugned order dated 29.10.1993, the applicant, who is stating that he had not handed over the charge, will resume duty in the post of Superintendent, (Preventive & Intelligence), Central Excise, Cuddapah and continue there pending decision that has to be taken by the Collector-I in view of the observations in this order.

7. The OA is ordered accordingly at the admission stage. No costs.

CERTIFIED TO BE TRUE COPY

Date.....

Court Officer
Central Administrative Tribunal
Hyderabad Bench
Hyderabad

On 29.10.1993, the Assistant Collector, Central Excise issued the proceedings to the applicant informing him that the order dated 30.4.1993 transferring him to Nandaluru stands and he has to proceed and therein it was stated that the issue of the said order was on the telephonic message received from Shri B.B.Prasad, Deputy Collector (P&V), Hyderabad. The same is challenged in this OA.

2. Heard the learned counsel for the applicant Shri K.G.Kannabiran and Shri N.R.Devaraj, learned Senior Standing Counsel for the Respondents.

3. ^{learned counsel} Shri Kannabiran submitted that when the order dated 19.10.1993 was passed by this Tribunal, the Collector-I is expected to apply his mind about the circumstances under which the order dated 30.4.1993 was passed and the fact that the order was conveyed under Telephonic message suggests that there was no proper application of mind and hence the impugned order dated 29.10.1993 is liable to be set-aside.

4. Shri N.R.Devaraj, learned Standing counsel for the respondents submitted that he received a copy of the order in OA 473/93 ~~dated~~ on 28.10.1993 and on the same day, it was sent to the Collector-I and there was sufficient time for him to take final decision in the matter. But, after perusing ~~xxxxxx~~ the note, Shri Devaraj submitted that as there is a vacancy at Nandalur since long, the present Collector-I had not chosen to disturb the order dated 30.4.1993. That itself suggests that the Collector-I had not considered the circumstances under which the order of transfer dated 30.4.1993 was issued.

contd....

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To

1. The Secretary, Union of India, Ministry of Finance,
Dept. of Revenue, Secretariat, New Delhi.
2. The Collector-I, Central Excise & Customs
Hyderabad Collectorate, Basheerbagh, Hyderabad.
3. The Deputy Collector (P&V) Central Excise & Customs,
Hyderabad Collectorate, Basheerbagh, Hyderabad.
4. The Assistant Collector, Central Excise, Cuddapah Divn, Cuddapah.
5. One copy to Mr. B. Nalini Kumar, Advocate, CAT. Hyd.
6. One copy to Mr. N. R. Devraj, Sr. CGSC, CAT. Hyd.
7. One copy to Library, CAT. Hyd.
8. ~~One spare copy.~~

pvm

5/14/93
P.V.M. 8/19/93