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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL APPLICATION NO.901 of 1995

DATE OF JUDGEMENT: 10th September, 1996

BETWEEN:

1. The Visakhapatnam customs Preventive Service Association, rep. by its Secretary, N.Jangalayya,
 2. D.Balakrishnan .. Applicants
- and
1. Union of India rep. by its Secretary, Ministry of Finance, New Delhi,
 2. The Principal Commissioner, Customs & Central Excise, Madras,
 3. The Principal Commissioner, Customs & Central Excise, Hyderabad,
 4. The The Collector of Customs, Madras,
 5. The Collector of Customs, Visakhapatnam. .. Respondents

COUNSEL FOR THE APPLICANT: SHRI P.B.VIJAYA KUMAR

COUNSEL FOR THE RESPONDENTS: SHRI K.BHASKAR RAO, ADDL.CGSC

CORAM:

HON'BLE SHRI R.RANGARAJAN, MEMBER (ADMN.)

JUDGEMENT

(ORAL ORDER PER HON'BLE SHRI R.RANGARAJAN, MEMBER(ADMN.))

Heard Shri V.Durga Rao for Shri P.B.Vijaya Kumar,
learned counsel for the applicant and Shri K.Bhaskar Rao,
learned standing counsel for the respondents.

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2. This OA is filed by Visakhapatnam Customs Preventive Service Association represented by its Secretary, N.Jangalayya as the first applicant and D.Balakrishnan, Superintendent of Customs, Customs House, Visakhapatnam as the second applicant. The applicants in this OA are Superintendents of Customs at Visakhapatnam. They were promoted to the post of Superintendent of Customs, Visakhapatnam from the post of Preventive Officer ~~for~~ ^{of} the same Custom House. Their grievance is that they are not transferred either to the Customs House at Madras or to the Airport Customs at Madras International Airport. They further submit that in terms of the letter No.A-22013/14/94-Ad.IIA dated 19.9.94 (Annexure A-1) it transpired that the Superintendent of Customs promoted from the post of Preventive Officer at Visakhapatnam are not eligible to be posted at Madras Custom House or to the Madras International Airport. However, the Preventive Officers from Madras Custom House who came on promotion as Superintendent of Custom at Visakhapatnam Custom House will be transferred back to Madras either to the Custom House at Madras or to the International Airport after completion of their tenure in Visakhapatnam. It also appears from the above letter that only the Superintendent of Customs at Madras Customs House will be considered for posting as Superintendent of Customs, International Airport at Madras.

3. This OA is filed praying for direction to the respondents to act in terms of the letter No.A-

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11019/102/91-Ad.IV dated 21.10.93 (Annexure A-2) and the letter No.A-22013/14/94-Ad.II A dated 19.9.94 of R-1 by posting the Superintendents working at Visakhapatnam on promotion from Preventive Officers cadre of Visakhapatnam Custom Collectorate in Madras Collectorate and also consider their cases for posting in Anna International Airport, Madras as per the seniority of the Superintendents.

4. policy decision of
The / posting of Superintendents of Custom (Preventive) of Madras Custom House to Visakhapatnam Custom House ~~XXXXXXXXXXXXXXXXXXXX~~ has been indicated in Para 6 at Page 3 of the reply of the respondents which reads as follows:

"(a) Officers who are due to retire within two years should be exempted from posting at Visakhapatnam Custom House;

(b) Only those Superintendents of Customs (Prev.) should be exempted from posting at Visakhapatnam Custom House who have already worked in Visakhapatnam Custom House at Group-B level;

(c) The tenure of posting at Visakhapatnam Custom House will be one year but officers willing to stay at Visakhapatnam Custom House for more than one year should be allowed to stay at Visakhapatnam Custom House for a longer period; and

- (d) The posting of Superintendents of Customs (Prev.) at Visakhapatnam Custom House should be made according to seniority on rotational basis subject to compliance with the conditions mentioned at (a), (b) and (c) above."

5. From the above it appears that the Superintendents of Custom promoted from Preventive Officers' cadre at Visakhapatnam cannot aspire to go to Madras Custom House. It is also seen that the Superintendents to be posted in the International Airport at Madras is taken only from the Superintendents of Custom of Madras Custom House. This would mean that the Superintendent of Custom at Visakhapatnam promoted from the cadre of Preventive Officers at Visakhapatnam cannot go to Madras Custom House as Superintendent of Custom and they were also not given chance to go as Superintendents in the Airport Custom at Madras.

6. From the above it looks that the policy is a discriminatory one. On 19.8.96, Shri Raghunath Lakshmanan, Examiner, Madras Custom House was present in this Court in pursuance of the earlier direction of this Bench dated 17.10.96 to clarify the position in this regard. However, I found that the said officer was not in a position to state any ~~thing xxxxxx this policy matter xxxxxx hence xxx direction~~

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thing in this policy matter. Hence a direction was issued by the order dated 19.8.96 for reconsideration of the policy issued at the appropriate level and to submit the result of the consideration in writing to this Bench on 10.9.96.

7. The case was heard today. The learned standing counsel produced before me a letter from the Commissioner of Customs, Madras addressed to the Commissioner of Central Excise & Customs, Hyderabad (copy of the letter along with its enclosure is taken on record). In this communication, extract of the clarification given by the Ministry in terms of the letter No.A-22013/14/94-Ad.II-A dated 9.9.96 was reproduced. The clarification as given by the Ministry reads as below:

"I am directed to refer to your D.O. letter No.C1/72/96-CAT dated 19.8.96 addressed to Member (P&V) on the above mentioned subject and to say that the policy/instructions contained in our letter F.No.A-22013/14/94-Ad.II(A) dated 19.9.94 were issued as a result of the representations made by Supdt. of Customs (Preventive), Madras Custom House stating that the guidelines issued in Board's letter F.No.A-22013/1/81-Ad.II(A) dated 4.2.81 and 24.4.81 for their rotation between Madras Custom House and Vizag Custom House were not being followed by CC, Madras. The instructions as contained in our letter dated 19.9.94 neither taken for posting of Supdt. of customs (Preventive) of Vizag Custom

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House to Madras Custom House nor debar deputation of Supdt. of Customs (Preventive) of Vizag Custom House to Anna International Airport, Madras. As per records available with us, the sanctioned strength of the Supdt. of Customs (Preventive) at Vizag Custom House is small i.e, 11 as against sanctioned strength of 38 at Madras Custom House. Therefore, there should not be any problem in posting/transfer of Supdt. of Customs (Preventive) of Vizag Custom House to Madras Custom House even after adhering to the instructions contained in our letter dated 19.9.94. Similarly, there should not be any problem in considering Supdt. of Customs (Preventive) of Vizag Custom House alongwith others for deputation to Anna International Airport, Madras."

8. From the above clarification, it can be inferred that the Superintendents of customs at Visakhapatnam of Vizag Custom promoted from the cadre of Preventive Officers can also be considered along with the others for posting at Madras Collectorate and also at the International Airport at Madras. The above inference is also confirmed by Shri U.Niranjan, Assistant Commissioner (Estt.), Central Excise Dept, Hyderabad who was present in the Court today. In view of the above, there is no further grievance for the applicants as they will also be considered in accordance with the rules for posting as Superintendents in Madras Collectorate and also in the International Airport at Madras. In view of the above clarification, there is no

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further direction required in this connection, as the policy has been clearly spelt out now in that the Superintendents of Custom at Visakhapatnam promoted from the post of Preventive Officers at Visakhapatnam will also be considered for posting as Superintendent of Custom in Madras Collectorate and also in the International Airport at Madras in accordance with the rules in vogue.

9. The O.A. is disposed of as above noting the clarification as spelt out as extracted in Para 7 supra.

→ No costs.

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(R. RANGARAJAN)
MEMBER (ADMN.)

DATED: -10th-September, -1996
Open court dictation.

Amhi
D. R. (J) 24/9

vsn

O.A.NO.901/95

Copy to:

1. The Secretary,
Ministry of Finance,
New Delhi.
2. The Principal Commissioner,
Customs and Central Excise,
Madras.
3. The Principal Commissioner,
Customs & Central Excise,
Hyderabad.
4. The Collectory of Customs,
Madras.
5. The Collector of Customs,
Visakhapatnam.
6. One copy to Mr.P.B.Vijaya Kumar, Advocate,
CAT, Hyderabad.
7. One copy to Mr.K.Bhaskara Rao, Addl.CGSC,
CAT, Hyderabad.
8. One copy to Library, CAT, Hyderabad.
9. One duplicate copy.

YLKR

3/10/96

Typed By
Compared by

Checked By
Approved by

THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH, HYDERABAD

THE HON'BLE SHRI R. RANGARAJAN: M(A)

DATED:

10/9/96

ORDER/JUDGEMENT
R.A/C.P./M.A. NO.

in

O.A. NO. 901/95

~~ADMITTED AND INTERIM DIRECTIONS ISSUED~~
~~ALLOWED~~
~~DISPOSED OF WITH DIRECTIONS~~
~~DISMISSED~~
~~DISMISSED AS WITHDRAWN~~
~~ORDERED/REJECTED~~
NO ORDER AS TO COSTS.

YLKR

II COURT

No spare copy

