

(31)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

Original Application No.597/96

Dt. of Order: 31-5-96.

Between :-

K.Venkata Rathnam

...Applicant

And

1. The Central Board of Excise & Customs, represented by its Secretary, Government of India, New Delhi.
2. The Chief Commissioner, Customs & Central Excise, Hyderabad Zone, Lal Bahadur Stadium Road, Basheerbagh, Hyderabad.
3. The Commissioner-I, Customs & Central Excise, Lal Bahadur Stadium Road, Basheerbagh, Hyderabad.
4. The Asst.Commissioner, Customs & Central Excise, Division No.VIII, Kukatpally (East) Range, Kukatpally, Hyderabad.

...Respondents

— — —

Counsel for the Applicant : Shri P.Naveen Rao

Counsel for the Respondents : Shri V.Rajeshwar Rao, Addl.CGSC

— — —

CORAM:

THE HON'BLE JUSTICE SHRI M.G.CHAUDHARI : VICE-CHAIRMAN

THE HON'BLE SHRI H.RAJENDRA PRASAD. : MEMBER (A) *✓*

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(Orders per Hon'ble Justice Sri M.G.Chaudhari,
Vice-Chairman).

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Heard Sri Y.Suryanarayana with Sri P.Naveen Rao, learned counsel for the applicant and Sri V.Rajeshwar Rao, learned standing counsel for respondents. By consent, the O.A. is taken on board for final hearing. Sri Naresh Penumaka, Assistant Commissioner, Central Excise, Hyderabad is also present to instruct Sri V.Rajeshwar Rao, the additional standing counsel appearing for the respondents.

2. The applicant who is working as Inspector of Central Excise was transferred from Vizag Commissionerate to Kukatpally (East), Hyderabad-VIII. He was relieved from the post at Vizag and joined the new post. Subsequently he has been relieved from the post at Hyderabad on 21-5-96 vide relief report at Annexure A-I to the O.A. The aforesaid action is purported to be taken by the respondents in view of the order dt.17-5-96 ^{issued} ~~passed~~ by the Chief Commissioner staying the operation of the transfer order dt.25-4-96 and the order ~~passed by Commissioner-I~~ in Establishment order No.46/96 dt.20-5-96 making the aforesaid stay order effective retrospectively from 25-4-96. The said action is challenged by the applicant in this O.A.

3. By an ad-interim order dt.23-5-96, the respondents were directed to maintain unaltered the position existing on

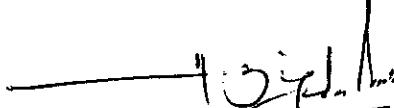
held

...3.

17-5-96 in respect of the applicant until further orders.

4. Today, on instructions of the Assistant Commissioner, Sri Rajeshwar Rao states that in pursuance of the aforesaid order the respondents have issued Establishment Order (NGO) No.53/96 dt.28-5-96 under which the applicant has been transferred and posted to Kukatpally (East) Range, Hyderabad-VIII from Vizag Central Excise Commissionerate. Sri Rajeshwar Rao further brought to our notice the Establishment order (NGO) No.52/96 issued by the Chief Commissionerate dt.27-5-96 whereby the order of stay dt.17-5-96 has been vacated in respect of some officers including the applicant and in pursuance of which the transfer order dt.28-5-96 has been issued by the Commissioner. The Respondents have thus purported to pass a fresh order of transfer rather than ~~xxxxxxxx~~ maintaining the original order dt.25-4-96. This order reads that it has been passed in partial modification of the order dt.25-4-96. However we hold that since the applicant had joined his posting at Hyderabad under the order dt.25-4-96 and that had continued in ~~xxxxxxxxxx~~ pursuance of the interim order passed by the Tribunal till 28-5-96, the order issued on 28-5-96 shall be regarded as in continuation of original transfer order. The present order dt.28-5-96 is a regular order of transfer posting the applicant at Hyderabad and is not confined to the duration of the stay order of this Tribunal. Therefore there is no difficulty in reading it as a regular order of transfer and it will continue to operate until a fresh regular order of transfer out of present posting would be passed. In view of the same, it is not necessary to continue the ad-interim order. It is agreed between the counsel that

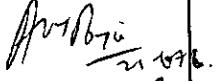
in view of the order dt.28-5-96 no further grievance of the applicant survives in this application and the same may be disposed of. Hence in view of the order dt.28-5-96 (Supra) the O.A. is rendered infructuous and is disposed of with no further order thereon.


(H.RAJENDRA PRASAD)
Member (A)


(M.G.CHAUDHARI)
Vice-Chairman

Dated: 31st May, 1996.
Dictated in Open Court.

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Deputy Registrar

OA 507/96

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To

1. The Secretary, Central Board of Excise and Customs, Govt. of India, New Delhi.
2. The Chief Commissioner, Customs and Central Excise, Hyderabad Zone, Lal Bahadur Stadium Road, Basheerbagh, Hyderabad.
3. The Commissioner-I
Customs and Central Excise, L.B. Stadium-Road,
Basheerbagh, Hyderabad.
4. The Asst. Commissioner,
Customs and Central Excise,
Division No. VIII, Kukatpally (East) Range,
Kukatpally, Hyderabad.
5. One copy to Mr. P. Naveen Rao, Advocate, CAT. Hyd.
6. One copy to Mr. V. Rajeswar Rao, Addl. CGSC, CAT. Hyd.
7. One copy to Library, CAT. Hyd.
8. One spare copy.

pvmi.

24/7/96
I COUN

TYPED BY

CHECKED BY

COMPARED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR.JUSTICE M.G.CHAUDHARI
VICE-CHAIRMAN

AND

THE HON'BLE MR.H.RAJENDRA PRASAD:M(A)

Dated: 31-5 -1996

ORDER/JUDGMENT

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

in

O.A.No. 505265 597/96.

T.A.No.

(W.P.)

Admitted and Interim Directions
issued.

Allowed.

Disposed of with directions

Dismissed

Dismissed as withdrawn

Dismissed for Default.

Ordered/Rejected.

No order as to costs.

pvm

