

(29)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

Original Application No. 621/96

Dt. of Order: 31-5-96.

Between :-

K.Balasaidaiah

...Applicant

And

1. The Chief Commissioner, Customs & Central Excise, Hyderabad Zone, Lal Bahadur Stadium Road, Basheerbagh, Hyderabad.
2. The Commissioner-I, Customs & Central Excise, Lal Bahadur Stadium Road, Basheerbagh, Hyderabad.

...Respondents

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Counsel for the Applicant : Shri P.Naveen Rao

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

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CORAM:

THE HON'BLE JUSTICE SRI M.G.CHAUDHARI : VICE-CHAIRMAN *hsc*

THE HON'BLE SRI H.RAJENDRA PRASAD : MEMBER (A)

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

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The applicant is working as Inspector of Central Excise.

By Establishment Order No.42/96 dt.25-4-96 he was transferred from Guntur Commissionrate to "Technical Hyderabad-IX". He was relieved from the Guntur office on 15-5-96 vide relief report at Annexure-II to the O.A. It is averred by the applicant that when he reported to duty at Hyderabad Office on 16-5-96, he was not allowed to join nor he was admitted to duty and thus he was neither here nor there. It is further averred by the applicant that he was not allowed to join the duty owing to some status quo ante orders having been passed. He ^{has} therefore challenged the orders dt.17-5-96 issued by the Chief Commissioner staying the operation of the original transfer order dt.25-4-96 with immediate effect and the Establishment Order No.46/96 ^{issued} passed by the Commissioner-I dt.20.5.96 by which the aforesaid stay order ^{purported to be given} is ~~perpetrated to make~~ give effect retrospectively from 25-4-96 and restoring the status quo ante ^{the} said date. We have examined the validity of the aforesaid two orders in our order separately passed today in OASR 1653/96. We have held that the order dt.20-5-96 is unsustainable and that the order of stay dt.17-5-96 does not apply to those in respect of whom the original order of transfer had become effective. In so far as the applicant is concerned, since he was relieved on 16-5-96 and it is ^{his} case that he had reported to duty on 16-5-96, we hold that the transfer ⁱⁿ his case had become effective prior to the issuance of stay order on 17-5-96. He is therefore entitled

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to remain at Hyderabad and the respondents are required to take him to duty forthwith.

2. Sri V.Rajeshwar Rao, learned standing counsel for Respondents submitted that, he has instructions to say that the applicant had not reported to duty on 16-5-96 and therefore the order of stay dt.17-5-96 is applicable to him. We do not think it is necessary to enter into ^{the} controversy whether the applicant had reported to duty on 16-5-96 and was not allowed to join or whether he had not reported. This is a matter to be dealt with by the Department. That the purpose of this order suffice it to say that since the transfer of the applicant coupled with the ^{relieving} leaving order had become effective prior to 17-5-96 the applicant would be entitled to join the duty at Hyderabad. Hence the following order is passed :-

- (i) It is declared that the order of stay dt.17-5-96 does not apply to the applicant and that his transfer became effective ^{under} when the original order dt.25-4-96 prior to the date of the said order (ie 17-5-96).
- (ii) The transfer order dt.20-5-96 issued by the Commissioner-I is hereby quashed - qua the applicant;
- (iii) The Respondents are directed to allow the applicant to join duty at "Technical Hyderabad-IX" forthwith;
- (iv) The applicant shall be deemed to have been transferred to that post under the Establishment order dt.25-4-96;
- (v) The question relating to the period from

16-5-96 till today is left to be dealt with by the respondents in-accordance with the rules.

3. The Original Application is disposed of in terms of the above directions. No order as to costs.

1.51
(H.RAJENDRA PRASAD)

Member (A)

M.G. Chaudhary
(M.G. CHAUDHARI)
Vice-Chairman

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

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Prabhakar Totte
Deputy Registrar (CC)

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O.A. 621/96.

To

1. The Chief Commissioner, Customs and Central Excise, Hyderabad Zone, Lal Bahadur Stadium, Road, Basheerbagh, Hyderabad.
2. The Commissioner-I Customs and Central Excise, Lal Bahadur Stadium Road, Basheerbagh, Hyderabad.
3. One copy to Mr.P.Naveen Rao, Advocate, CAT.Hyd.
4. One copy to Mr.V.Rajeshwar Rao, Addl.CGSC.CAT.Hyd.
5. One copy to Library, CAT.Hyd.
6. One spare copy for duplicate file.

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17/6/96

I COURT

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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. 621/96.

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.

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