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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

Original Application No. 622 of 1996.

Dt. of Order: 31-5-96.

Between :-

A. Ganesh Satyadev

...Applicant

And

1. The Chief Commissioner, Customs & Central Excise, Hyderabad Zone, L.B. Stadium Road, Basheerbagh, Hyderabad.
2. The Commissioner-I, Customs & Central Excise, Lal Bahadur Stadium Road, Basheerbagh, Hyderabad.
3. B. Suresh,
Inspector of Customs & Central Excise
on transfer to Chief Commissioner's
Office & presently reposted to Cherlapally-I
Range, Division-X, Hyderabad.

...Respondents

Counsel for the Applicant : Shri P. Naveen Rao

Counsel for the Respondents : Shri N.R. Devaraj, Sr. 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 Shri 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 NR Devaraj, learned standing counsel for Respondents 1 to 3. By consent OA is admitted. Notice waived. Finally heard. The applicant who was working as Inspector of Central Excise was transferred from Divisional Office, Cuddapah to post at Cherlapalli-I, Hyderabad X, Hyderabad vide Establishment Order No. 42/96 dt. 25-4-96 issued by the Office of Commissioner of Customs & Central Excise. Pursuant to that order he was relieved from the Divisional Office at Cuddapah on 2-5-96 and joined duty at Hyderabad on 6-5-96, in the post to which he was transferred. Thus the order dt. 25-4-96 became fully effective on 6-5-96.

2. The Chief Commissionerate of Customs & Central Excise, Hyderabad, issued an order on 17-5-96 staying the order dt. 25-4-96 with immediate effect. By Establishment Order (NGO) No. 46/96 dt. 20-5-96 issued by the Commissioner-I of the Customs & Central Excise Department it was purported to be clarified that the stay order issued by the Chief Commissioner dt. 17-5-96 restores the status quo ante and that in other words the stay order was effective from 25-4-96.

3. In pursuance of the aforesaid order, the applicant has been relieved by the Hyderabad Office on 22-5-96 vide relief report

hcl

....3.

at Annexure A-III. The applicant is aggrieved with the action of the respondents requiring him to go back to Cuddapah Division Office on the ground that the same is illegal and causes prejudice to him. He has therefore sought quashing of the orders dt.17-5-96 and 20-5-96. He also ~~xx~~ prays for consequential benefits including a direction to the respondents to ~~x~~ re-admit him to duty at the place of posting i.e. at Hyderabad.

4. On the face of it, ~~xx~~ the order of stay dt.17-5-96 was prospective in operation. That means that those persons who were already transferred between 25-4-96 and 17-5-96 under the Original order of transfer and had joined duty at the new posting could not be affected by the order of stay. Since the applicant had joined at new posting on 6-5-96, the stay did not apply to him. The order passed by the Commissioner dt.20-5-96 cannot be legally sustained for the reason that it is not an order staying the Original order dt.25-4-96 nor it is an ~~xx~~ order cancelling the original order. It merely purports to make clarification that the order dt.17-5-96 should be read as restoring the status quo ante. Such effect cannot be brought about by means of such a clarification nor the order dt.17-5-96 can be converted thereby into an order with retrospective effect. It follows that the action taken by the respondents for relieving the applicant requiring him to go back to Cuddapah Division by reason of clarification that the status-quo ante was to be restored would not also be sustainable.

5. Sri NR Devaraj, learned counsel for the respondents did not find it easy to support the order dt.20-5-96. On instructions of Sri Naresh Penumaka, Assistant Commissioner, he submitted that

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the respondents have already issued fresh orders retaining the applicants in another similar cases regularly at the places of new posting pursuant to the interim order passed by the Tribunal on 23-5-96, these cases being OA 614/96 and OA 597/96. In view of the same, the learned counsel conveys to us that the instant case may also be finally disposed-of.

6. In the light of the foregoing discussion, following order is passed :-

(a) It is hereby declared that the order dt.17-5-96 was prospective in operation and did not apply to the applicant whose transfer under the original order dt.25-4-96 had fully become ^{effective} active on 6-5-96;

(b) The Establishment Order No.46/96 dt.20-5-96 issued by the Commissioner-(I) containing the ~~and~~ clarification in respect of the order dt.17-5-96 is hereby quashed qua the applicant;

(c) As a consequential measure the order relieving the applicant dt.22-5-96 is hereby quashed and the respondents are directed to allow the applicant to resume duty at the same post at Hyderabad, where he was transferred by order dt.25-4-96.

7. It is clarified that this order is confined only in respect of the orders referred to above.

8. Original Application is disposed of in terms of the above orders. No order as to costs.

(H. RAJENDRAPRASAD)
Member (A)

(M.G. CHAUDHARI)
Vice-Chairman

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

176/96
deputy Registrar (D) ce

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To

1. The Chief Commissioner, Customs and Central Excise, Hyderabad Zone,
L.B.Stadium Road, Basheerbagh, Hyderabad.
2. The Commissioner-I, Customs and Central Excise,
L.B.Stadium Road, Basheerbagh, Hyderabad.
3. Sri B.Suresh, Inspector of Customs and Central Excise
on transfer to Chief Commissioner's Office
and Presently reposted to Cherlapally-I Range,
Division-~~X~~ Hyderabad.
4. One copy to Mr.P.Naveen 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.

pvm.

25/6/96

I COURT

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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. ~~605/96~~ 622/96.

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

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
प्रेषण/DESPATCH
20 JUN 1996
HYDERABAD BENCH
HYDERABAD