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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH
AT HYDERABAD.

..
O.A.No.754/99.

Date of decision: 19-5-199.

Between:

G.J.S.Prabhakar Rao.

.. Applicant.

And

1. Government of India represented
by its Secretary, Ministry of
Finance, (Department of Revenue),
New Delhi.
2. Chief Commissioner, Customs &
Central Excise, Hyderabad Zone,
L.B.Stadium Road, Basheerbagh,
Hyderabad -4.
3. Commissioner for Customs & Central
Excise, Hyderabad-I, L.B.Stadium Road,
Basheerbagh, Hyderabad-4. Respondents.

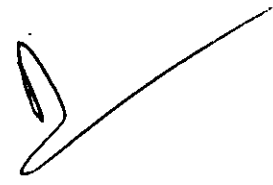
Counsel for the Applicant: Sri N.R.Devaraj.

Counsel for the Respondents: Sri V.Vinodkumar.

CORAM

Hon'ble Sri Justice D.H.Nasir, Vice-Chairman.

Hon'ble Sri R.Rangarajan, Member (A)



O.A.No.754/99.

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O R D E R

(by Hon'ble Sri R. Rangarajan, Member (A))

-:-

Heard Sri N.R.Devaraj, learned counsel for the Applicant and Sri V.Vinodkumar, learned counsel for the Respondents.

The Applicant in this O.A., was transferred from the International Airport, Hyderabad under the control of Commissionerate-II of the Central Excise Department to Guntur Commissionerate by the impugned Order (G.O.)No.43/99 dated 10th May, 1999 (Annexure A-1 Page 11 to the O.A.) He stands at Sl.No.38 of the said impugned order.

The O.A., is filed challenging the impugned Order of transfer dated 10th May, 1999.

The contention of the Applicant in this O.A., is that he has two years tenure at Airport as Customs Official and he has not completed the tenure period of two years. Therefore, his transfer to Guntur Commissionerate is against the standing instructions of the Department. He also submits that he was permitted to apply for the selection for the post of Air Customs Officers and Air Customs Superintendents when a Notification was issued by the Respondent No.2 by Order C.No.11/3/8/98-Con.Sec. dated 30th March, 1999 (Annexure V Page 22 to the O.A.)

: 3 :

The applicant submits that even though he has submitted his application, he was not selected, even though he was selected in the earlier selection for the same post of Air Customs Superintendent and was placed at the top of that select list.

From the above averments, two issues arise in this O.A. They are --

- 1) Calling for applications for preparation of panel for the posts of Air Customs Officers and Air Customs Superintendents on deputation to Hyderabad International Air Port by Order dated 30.3.1999 is itself unwarranted as the Officers posted by the earlier selection had not completed their tenure of two years;
- ii) The second issue is in regard to the challenge for the transfer of the applicant from International Airport, Hyderabad to Guntur Commissionerate.

The learned counsel, Mr. Devaraj, for the applicant could not explain as to why the applicant had applied for keeping him in the panel for the post of Air Customs Superintendent in pursuance of the Notification dated 30.3.1999 when such a notification is un-called for.




: 4 :

The O.A., is filed challenging only the impugned transfer order. Hence, the first contention cannot be dealt with by us in this O.A., as it is beyond the scope of this case.

The only point that survives for consideration in this case is in regard to the challenge to the order of transfer.

The challenge in regard to the same order of transfer of other employees included in that list has been considered in number of previous O.As. Even today O.A. No.746/99 was disposed of for the similar relief as in this O.A. As the applicant is similarly placed as in O.A.746/99, the directions given in O.A.746/99 will also hold good in this O.A.

The learned counsel, Mr. Devaraj for the Applicant submits that the 2nd respondent is biased as he has failed to consider the case of the applicant for inclusion in the panel, ~~where his representation for consideration~~ even though he fulfills all the conditions required to empanel him and also he is the senior most. Hence his representation for consideration of his case to retain him at Hyderabad ^{may} ~~was also~~ not dealt with by him impartially.



: 5 :

~~as~~ The Respondent No.2 being a senior officer-in-charge of the Department, we have no hesitation to come to the conclusion that he will consider the representation of the applicant unbiasedly. In case Respondent No.2 feels it necessary to deal the case by higher officials, he will forward the same to the said higher authorities. Hence, it is not necessary for us to refer the matter to the higher authorities higher than the 2nd respondent.

It is also stated that the applicant has not submitted his representation. The applicant should, if so advised, may submit his representation incorporating all the contentions raised in the O.A., as well as the other contentions that are available to him within three days from the date of receipt of this Order. On receipt of such a representation from the applicant, the Respondent No.2 shall dispose of that representation of the applicant expeditiously.

From the facts and circumstances of this case the following directions are given:

- i) The applicant, if so advised, may submit a detailed representation to the 2nd Respondent in regard to his transfer within three days from the date of receipt of this Judgment;
- ii) The Respondent No.2 is directed to dispose of



: 6 :

that representation of the applicant if received within the stipulated time in accordance with the law taking due note of the observations made in this Order. While doing so, Respondent No.2 may also take note of the family problems of the Applicant.

iii) If the applicant is not yet relieved or his successor is not relieved from his post, the applicant shall not be disturbed till the disposal of his representation by the 2nd respondent.

iv) In case the applicant is already relieved or his successor ~~is~~ is also relieved, then the applicant should be allowed to proceed on leave till the disposal of his representation, if he applies for leave


NOTE:

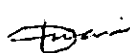
Registry should send a copy of the O.A. along with a copy of the Judgment to the 2nd respondent.

(B.O.)

v) If any adverse decision is ^{taken} ~~given~~ to the representation of the Applicant, that decision will come into effect only after one week from the date of receipt of that decision by the Applicant.

With the above directions, the O.A., is disposed of at the admission stage itself. No order as to costs.


(R. RANGARAJAN)
Member(J)


(D.H. NASER, J)
Vice-Chairman.

Date: May 19, 1999

Dictated in open Court.

sss.



c.c. today

1ST AND 2ND COURT

COPY TO:-

1. HDHND

2. HARP M(A)

3. HBSP M(J)

4. D.R.(A) ✓

5. SPARE ✓

NKD - copy given

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : HYDERABAD.

THE HON'BLE MR. JUSTICE D.H. NASIR
VICE - CHAIRMAN ✓

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

THE HON'BLE MR. R. RANGARAJAN :
MEMBER (A) ✓

THE HON'BLE MR. B. S. JAI PARAMESWAR :
MEMBER (J)

ORDER: 19599

ORDER / JUDGEMENT

MA./DA./CP No.

in
DA. No. 754/99

ADMITTED AND INTERIM DIRECTIONS
ISSUED.

ALLOWED.

C.P. CLOSED.

R.A. CLOSED.

D.A. CLOSED.

DISPOSED OF WITH DIRECTIONS.

DISMISSED.

DISMISSED AS WITHDRAWN.

ORDERED / REJECTED.

NO ORDER AS TO COSTS.

SRR

with 01 copy
dependent

केन्द्रीय प्रशासनिक अधिकरण Central Administrative Tribunal प्रेषण / DESPATCH
31 MAY 1999
हैदराबाद ब्यायपीठ HYDERABAD BENCH