

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH, JAIPUR.

Jaipur, the 24th day of April, 2006

ORIGINAL APPLICATION NO.555/2005

CORAM :

HON'BLE MR.M.L.CHAUHAN, MEMBER (J)

S.R.Gaur,
Deputy Commissioner,
Jaipur-I,
Central Excise,
Jaipur.

By Advocate : Shri Harpreet Singh
... Applicant

Versus

1. Union of India
Through Secretary,
Ministry of Finance,
Department of Revenue,
North Block,
New Delhi.
2. The Member (P&V),
Central Board of Excise & Customs,
North Block,
New Delhi.
3. Chief Commissioner,
Central Excise (Jaipur Zone),
Jaipur.

By Advocate : Shri T.P.Sharma
... Respondents

ORDER

PER HON'BLE MR.M.L.CHAUHAN

This is second round of litigation, whereby the applicant has challenged the order dated 11.11.2005 (Ann.A/2) which was passed pursuant to the judgement rendered by this Tribunal vide order dated 29.9.2005 (Ann.A/9), whereby respondent No.2, the Member (P&V), Central Board of Excise & Customs, North

49

Block, New Delhi, was directed to pass reasoned and speaking order on the representation of the applicant keeping in view the law laid down by the Apex Court as noticed in the judgement. ~~.....~~ The sole question which requires consideration in this case is whether the impugned order (Ann.A/2), whereby the representation of the applicant was rejected, was passed in conformity with the observations made by this Tribunal vide order dated 29.9.2005 (Ann.A/9), whereby this Tribunal while disposing of the earlier OA (No.456/2005) in para-5 made the following observations :

"5. Thus, in view of the law laid down by the Apex Court, as noticed above, and also the fact that the applicant has filed representation (Ann.A/7) explaining his frequent transfers as well as personal difficulties, I am of the view that the end of justice will be met if the direction is given to the competent authority to decide applicant's representation (Ann.A/7). Accordingly, the respondent No.2 is directed to decide the representation of the applicant (Ann.A/7) by passing a reasoned and speaking order and keeping in view the law laid down by the Apex Court, as noticed above, more particularly the decision of the Apex Court in the case of Shanti Kumar (supra) whereby the Apex Court has specifically observed that if there is breach of Government instructions with regard to transfer, the authorities will look into the matter and redress the grievance of the appellant. Till such a decision is taken, the applicant shall not be relieved pursuant to the impugned order (Ann.A/1) and in case he has been relieved, he will not be forced to join at new station. In case the order passed on representation is adverse to the applicant, the same shall not be given effect to for a period of

two weeks so that the applicant may move the competent Court of law."

2. Pursuant to the aforesaid order passed by this Tribunal, the respondents passed order dated 11.11.2005 (Ann.A/2), thereby rejecting the representation of the applicant. However, this order has been signed by the Deputy Secretary to the Govt. of India. When the matter was listed before this Tribunal on 30.11.2005, this Tribunal directed the respondents to explain the circumstances why the matter was not placed before the respondent No.2 who was directed to pass the order in the light of the directions given by this Tribunal vide its earlier order dated 29.9.2005.

3. The respondents have filed their reply. In the reply the respondents have not uttered a single word why the matter was not placed before respondent No.2, who was directed to pass the order. However, it has been stated that the representation of the applicant has been rejected by the Office as there was no merit in it.

4. I have heard the learned counsel for the parties. I am of the view that the impugned order (Ann.A/2) has not been passed in conformity with the observations made by this Tribunal in the Judgement dated 29.9.2005 passed in the earlier OA, the relevant portion of which has been reproduced above. Thus, according to me, the impugned order dated 11.11.2005 (Ann.A/2) is no order in the eye of law. Accordingly, the same is quashed. The

applicant shall be allowed to continue to work at Jaipur. However, it will be open for the respondents to proceed further in the light of direction given by this Tribunal vide order dated 29.9.2005 (Ann.A/9) by strictly following the observations made in the operative portion (para-5) of the Judgement dated 29.9.2005 (Ann.A/9).

5. With these observations, the OA is allowed with no order as to costs.


(M.L.CHAUHAN)
MEMBER (J)