

30/100
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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Bahri
23.1.18

CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH : GUWAHATI

ORIGINAL APPLN. NO.

13 OF 1996

TRANSFER APPLN. NO.

OF 1995

CONTUMPT APPLN. NO.

OF 1995 (IN NO.)

REVIEW APPLN. NO.

OF 1995 (IN NO.)

MISC. PETITION NO.

OF 1995 (IN NO.)

R.K. Sarker..... APPLICANT(S)

-vs-

Lokendra Kumar..... RESPONDENT(S)

For the Applicant(s)

Mr. B.K. Sharma

Mr. M. Chanda

Mr.

Mr.

For the Respondent(s)

Mr. S. Ali, Sr. C.G.S.C.

OFFICE NOTE

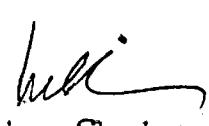
DATE

ORDER

22.1.96

Mr B.K.Sharma with Mr M.Chanda for the applicants.

Place before Division Bench on 5.2.1996 for admission.


 Vice-Chairman

pg

14.2.96

Mr. B.KSharma for the applicant.

Mr. S.Ali,Sr. C.G.S.C. for the respondents.

Notice waived. By consent taken up for final orders.

S. 2. 96Adjourned to14.2.96BON29.8.96
 copy of order issued
 to the advocates of the
 parties vide O. No 2892,
 28.8.96.

Mr. Sharma submits that in view of certain developments the applicant desires to rely on certain grounds which have not been made part of the O.A. and therefore he may be permitted to file a fresh application and for that purpose the instant O.A. may be allowed to withdraw without prejudice thereto. Mr. S.Ali, Sr. C.G.S.C. for the respondents does not object.


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(contd.to Page No.2)

Shyam

O.A. No. 13 of 1996

GX/XX/XX/PA/MP

OFFICE NOTE

DATE

ORDER

14.2.96

In the result the O.A. is allowed to be withdrawn with liberty to the applicant to file fresh O.A. including the same cause of action which is subject matter of this O.A. No order as to costs.


Member
Vice-Chairman

trd

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

18 JAN 1996

An application under Section 19 of the Administrative Tribunals Act, 1985.

O.A. No. 13 /96

Sri R.K. Sarkar & Ors.

..... Applicants

-Vs-

Union of India & Ors.

..... Respondents

I N D E X

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Filed by :

Manik Chandra,
Advocate

Ratnadev Kumar Sarkar

Filed by the applicant
through Mr. Chandra A
19.1.96

1. Particulars of the applicants

1. Sri R.K.Sarkar, O/o Asstt. Commissioner, Central Excise, Guwahati.
2. Sri Sukanta Das, O/o the Commissioner, Central Excise, Shillong.
3. Sri Ranjit Kumar Sharma -do-
4. Sri Subhrangshu Deb, O/o Asstt. Commissioner, C.E., Digboi.
5. Sri Manoj Kumar Brahma, O/o Asstt. Commissioner, Central Excise, Tinsukia.
6. Sri Biswajit Bhattacharjee, O/o Asstt. Commissioner, Tripura.
7. Sri Alok Chakraborty -do-
8. Sri Nalini Mohan ~~Bik~~ Baishya, O/o Asstt. Commissioner, Customs, Guwahati.

All the applicants are working under the Commissionerate of Central Excise and Customs, Shillong and posted in different places in the North Eastern Region.

2. Particulars of the Respondents.

1. Union of India, through the Secretary to the Govt. of India, Department of Revenue, Ministry of Finance, New Delhi.
2. The Secretary, Govt. of India, Department of Expenditure, Ministry of Finance, New Delhi.
3. The Secretary to the Govt. of India, Ministry of Finance, New Delhi.
4. The Deputy Secretary, Department of Revenue, Ministry of Finance, New Delhi.
5. The Financial Adviser (Finance) Deptt. of Revenue, Ministry of Finance, New Delhi.
6. The Chief Commissioner, East ~~Shikkim~~ Zone, Govt. of India, Customs & Central Excise, Calcutta.

4.7. The Commissioner, Customs,

Govt. of India, Department of Revenue,
Ministry of Finance,
Shillong.

8. Commissioner,

Central Excise, Govt. of India,
Dept. of Revenue,
Ministry of Finance,
Shillong.

9. Commissioner, Central Excise,

Govt. of India,
Department of Revenue,
Ministry of Finance,
Bhubaneswar.

10. The Chairman, Central Board of

Excise and Customs, Govt. of India,
Department of Revenue,
Ministry of Finance,

New Delhi-110001. . . . Respondents.

3. Particulars for which this application is made.

This application is made against the decision
communicated under order issued under letter No. F.No.
A-11013/23/95-Ad.IV dated 7.12.95 for diversion of 10
(ten) posts of Superintendent Group B of the Central
Excise, Commissionerate Shillong to Bhubaneswar

Commissionerate of

contd. p/4...

of Central Excise and for setting aside the above impugned order dt. 7.12.95 issued by the Govt. of India, Ministry of Finance, Department of Revenue whereby the present applicants who are due for promotion to the post of Superintendent Group B are being adversely affected if the above impugned order is implemented.

4. Limitation

That the applicants declare that this application is within the limitation prescribed under Section 21 of the Administrative Tribunals Act, 1985.

5. Jurisdiction

That the applicants declare that the subject matter of this application is within the jurisdiction of this Hon'ble Tribunal.

6. Facts of the case

That the applicants are citizens of India and as such, they are entitled to all the rights, protections and privileges as guaranteed under the Constitution of India.

6.2 That this application is made against the impugned order issued under letter No. F.No. A/11013/23/95 and FD-IV New Delhi dated 7.12.95 by the Deputy Secretary, Govt. of India, Department of Revenue, Ministry of Finance for diversion of 10 posts of Superintendent Group B ~~xx~~ the Commissionerate to Central Excise, Shillong to the Commissionerate, Central Excise, Bhubaneswar whereby persons who are due for promotion to the post of Superintendent Group B are being adversely affected if the impugned order ~~xxximplanted~~ dated 7.12.95 issued by the Ministry

is impleted therefore the applicants in the instant application prays for setting aside and quashing the impugned order dated 7.12.95.

6.3 That the present applicants pray that Hon'ble Tribunal be pleased to permit the applicants of this application to move this application jointly under Section 4(5)(a) of the Administrative Tribunals Act as the grievance and reliefs sought in this application are commong.

6.4 That the applicants are presently working in the grade of Inspectors under the Commissionerate of customs and Central Excise, Govt. of India, Department of Revenue, Ministry of Finance, Shillong. All the applicants have nearly completed 14 years of service particularly in the grade of Inspector in the pay scale of Rs. 1640-2900 (Revised). All the applicants are now due for promotion to the cadre of Superintendent (Group B) as per seniority position in the cadre of Inspector and they are now expecting their due and legitimate promotion to the cadre of Superintendent Gr. B in the Customs and Central Excise Department.

6.5 That the promotion to the cadre of Superintendent Group B are based on the basis of regional seniority from the feeder cadre of Inspector and the post of Superintendent Group B are being filled up by promotion from the cadre of Inspector to the cadre of Superintendent Group B. The Shillong Commissionerate consists of seven North Eastern States.

6.6 That the seniority position of all the applicants are furnished hereunder in details for perusal of the Hon'ble Tribunal and it would be evident from the seniority position that all the applicants are now due for promotion to the cadre of Superintendent Group B in the department of Customs and Central Excise.

Sl. No.	Name	Seniority position as on 1.1.1994
1	Sri Rathindra Kr. Sarkar	38
2	Sri Sukanta Das	39
3	Sri Ranjit Kr. Sharma	47
4	Sri Subrangshu Deb	42
5	Sri Manoj Kr. Brahma	61
6	Sri Biswajit Bhattacharjee	48
7	Sri Alok Chakraborty	45
8	Sri Nalini Mohan Baishya	46

The applicants craves leave of the Hon'ble Tribunal for production of the seniority list of the cadre of Inspector

*Calcutta
Adv.*

for perusal of the Hon'ble Tribunal. Be it stated that serial number upto 37 have already been promoted to the cadre of Superintendent group 'B'.

6.7 That in the commissionerate of Customs and Central Excise Shillong total sanctioned strength of Superintendent and Inspectors in the year 1993 are as follows :

GRADE	CENTRAL EXCISE COLLECTORATE	CUSTOMS PREVENTIVE COLLECTORATE	TOTAL SANCTIONED STRENGTH
Superintendent	108	55	163
Inspector	417	340	757

This sanctioned strength of Superintendent and Inspectors would be evident from the letter of the Principal Collectorate (Now redesignated as *Chief* Principal Commissioner) Cumstoms and Central Excise, Calcutta Order No. 4/93 dt. 27.9.93. In this letter it is also indicated that consequent upon the creation

of separate customs and preventive collectorate out of the existing collectorate of Central excise and customs at Shillong it has become necessary to distribute the executive staff between the two collectorates, having regard to the existing workload and the intensify the anti smuggling operatiin and also to increase the anti evasion work. The total sanctioned strength was distributed as under :

GRADE	CENTRAL EXCISE COLLECTORATE	CUSTOMS PREVENTIVE COLLECTORATE	TOTAL SANCTIONED STRENGTH
Superintendent	108	55	163
Inspector	417	340	757
Havildar	32	27	59
Sepoy	283	255	538

Copy of the letter dated 27.9.93 is annexed as
Annexure-1.

6.8. That from the above it appears that the sanctioned strength of Superintendent of Grade B in the entire North Eastern Region was 163 since 1993. The applicants further said that prior to March 1989 the total sanctioned strength of Superintendent Group B was 138 and as per recommendation of the cadre review committee duly constituted by the Government of India. ~~in the year Govt.~~ have recommended for sanction of additional 5 posts of Superintendent Group B for Shillong Collectorate now redesignated as Commissionerate and the same was sanctioned by the Government in two separate phases. In the first phase in the year 1989 one post of Superintendent Group B was sanctioned and in the 2nd ~~year~~

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phase in the year 1991 4 posts of superintendent group B were sanctioned. In the first phase one post of Superintendent of Group B was sanctioned by the Deputy Secretary, Govt. of India, Department of Revenue under order No. F. R. No. 11013/61/84/Ad IV dt. 17.3.89 issued by the Deputy Secretary Department of Revenue and in the second phase 4 posts of Superintendent Group B were sanctioned in the year 1991 vide order No. F. No. A-11013/140/90/Ad IV Vol III dated 21.8.91

At the relevant time in the year 1991 the Department of Revenue, Govt. of India, Ministry of Finance had sanctioned 7 posts of Superintendent Group B to the Bhubaneswar Collectorate of Customs and Central Excise ~~had sanctioned 7 posts of Superintendent Group B to the Bhubaneswar Collectorate of Customs and Central Excise~~ now redesignated as Commissionerate. Be it stated that when no posts of Superintendent Group B was sanctioned to Shillong Collectorate but two posts of Superintendent of Group B were sanctioned by the Department of Revenue, Govt. of India to the Bhubaneswar Collectorate in the 1993 on the recommendation of the cadre review committee.

6.9 That with a view to strengthening the Customs Network in the North Eastern Region of the country the Govt. of India after careful consideration ~~of~~ had created the sub-collectorate of Customs with divisions at Imphal, Dimapur, Aizawl and Shillong vide its order No. F No. A-11013/18/89-Ad IV dated 16.4.93. In the said letter of proposal for creation of a Customs Preventive sub-collectorate for the North Eastern Region with headquarter at Imphal it is also stated in paragraph 3, 4 and 5 of the

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said letter that it was also directed to convey the sanction of the President to creation of 93 additional posts in the different grade (Group B and C) for the Imphal sub-collectorate and it was further stated that sanctioned was also accorded for a recurring expenditure of Rs. 35.13 lakhs per annum and non-recurring expenditure of Rs. 12.40 lakhs for the creation of 93 additional posts. Be it stated that out of 93 additional posts in different grades sanction of 20 posts accorded in the cadre of Superintendent Group B posts and sanction for 15 posts of Inspector also accorded. ~~xxx~~ The relevant portion of the letter dated 16.4.93 is quoted below :

" 3. The Sub-Collectorate would be headed by an Additional Collector to be stationed at the headquarter at Imphal. One post of Additional Collector from the Collectorate of Customs and Central Excise, Shillong therefore stands diverted with immediate effect for this purpose.

4. I am also directed to convey the sanction of the President to creation of 93 additional posts in the different grades (Group B and C) for the Imphal Sub-Collectorate, the details of which are shown in the Annexure.

5. Sanction is also hereby accorded for a recurring expenditure of 35.13 lakhs per annum and non-recurring expenditure of Rs. 12.40 lakhs for the posts mentioned at Annexure.

6. This issue with the approval of Financial Adviser (Finance) vide Dy. No. F.677/FA(F)/93 dated 09.03.1993".

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Therefore, it appears from the above letter of the Ministry, Department of Revenue that there was requirement for additional posts for strengthening the customs network in the North Eastern Region of the country and as a result of the sanction of additional 93 posts in different grades of Group B and C facilitated the promotion avenues of the serving executive officers of Shillong Commissionerate.

A copy of the letter dated 16.4.93 is annexed as Annexure -2.

6.10 That the applicants beg to state that although exemption of excise duty on Tea was given in the budget of 1993 and as a result the so-called surplus staff who were earlier deployed for the purpose of creation of excise duty on Tea under the Shillong Collectorate was redeployed after reorganising the entire set up of both customs sub-collectorate and Central Excise,

Shillong and the Customs Sub-Collectorate was given the status of full fledged Collectorate.

It is also appeared from the letter of the ^{Principal} then Collector (Now redesignated as Chief Commissioner) Eastern Zone, Calcutta, though Central Excise Duty on tea had exempted in the Finance Bill of 1993 but there is still Central Excise control on Tea and the Central Excise Department had been entrusted with the task of collecting CESS, destruction of tea waste, stuffing of tea in containers for export purpose etc. The Chief Commissioner therefore observed in his D.O. letter which was addressed to the Member (P & V), Central Board of

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Excise & Custome, New Delhi in view of the exemption of excise duty on tea there was no reduction in workload due to abolition of Central Excise Duty on Tea. Hence there cannot be any surplus staff on this score. The Chief Commissioner also discussed in his D.O. letter that the discussion held with the Shillong Collectorate of Customs and Central Excise and various aspects as a result of exemption of Excise Duty on Tea and finally he express that there was no decrease in the workload entrusted to the Excise staff posted for collection of duty and on Tea.

The relevant portion of the D.O. letter dated 6.9.93 is quoted below :

" I have considered the matter at length and discussed it with the trade as well as the local Collector and I feel that the facts have not been placed in their proper perspective. Hence this letter.

2. Firstly, it is not the case that the Excise Duty on Tea has been fully abolished and that there are no chances of revival of duty on tea as was the case in respect of excise duty on Tobacco. The excise duty on tea has been exempted for various reasons i.e. to encourage the export of tea, by making it competitive in the global market, to reduced the excise duty burden on the Tea Garden owners under the expectation that the benefit will be passed on to the consumers etc. In this context I also want to bring to your notice the statement made by the Union Minister of Civil Supplies, Consumer Affairs and Public

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Distribution on 7.6.93 that if the excise relief on tea, sugar, etc. are not passed on to the consumers, the same could be withdrawn. (Photostat copy of the statement as appearing in the Times of India, New Delhi Edition dated 8.6.93 is enclosed).

Therefore in the background of the situation where the Government is having a rethinking on the question of total ~~xxx~~ exemption of excise duty on tea, it would not be correct to surrender the staff straightaway. The matter would have been different if tea had altogether been taken out from the Schedule to the Central Excise Tariff Act, 1985.

3. Secondly, it would not be correct to say that the staff is idle because of the excise duty exemption. In fact the Central Excise Department has been entrusted with the agency function of collecting the CESS on tea and which is passed on to the Tea Board. During 1992-93 while the total Central Excise duty collection upto 28.2.93 was Rs. 56.93 crores, the Cess so collected was Rs. 9.62 crores. There was no collection of Central Excise Duty or Cess in March 1993. Non-collection of cess in March 1993 was due to Notification No. 258/67-C.E. dated 2.12.1967 (photostat copy enclosed) whereunder if the tea was exempted from the whole of the duty of excise, the Cess leviable

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under section 25(3) of the Tea Act, 1953 also stood exempted. The Tea Board soon realised that they will be loosing about Rs. 15 crores as the revenue from Cess on Tea and therefore moved the Ministry of Finance and accordingly Notification No. 82/93-C.E. dated 2.4.93 was issued (copy enclosed) and the Cess on Tea was restored. We are, therefore, performing the Agency function of collection of Cess on Tea for Tea Board in the same manner as we are doing for other Government Departments under different Acts. Therefore, so long as the Ministry of Agriculture decides to divert the Central Excise Officer with the functions of collection of Cess on Tea and setting up a parallel machinery for the collection of Cess, we cannot withdraw or surrender the staff.

4. Lastly, I wish to bring to your notice the fact that the services of the range staff are on and off being requisitioned for supervising the stuffing of Tea in the containers for export. This is due to the insistence of foreign buyers for supply of garden fresh tea as it sells at a premium in the foreign countries. The exporters complain that if the excise staff are unilaterally withdrawn they will have to face lot of hardships, in that the excise staff will have to be brought from long distances to supervise the stuffing. They are of the view that the Department is not a looser since they are

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collecting merchant over-time for providing such services and it is only the tea industry of which will suffer by the withdrawal of staff.

5. You will, therefore, kindly appreciate that there is no decrease in the workload entrusted to the excise staff posted for collection of duty (and now Cess) on Tea. The relief is only nominal and i.e. of not submitting the returns in respect of excise duty collection. The excise staff can be completely withdrawn only if the Government finally abolishes the excise duty on tea and the Tea Board makes its own arrangements for collection of Cess and also if we are not interested in providing any facility to the Tea Exporters. There are two Collectorates under my charge where excise duty on tea is being collected i.e. Shillong and Bolpur (which has jurisdiction over Darjeeling and Jalpaiguri District). I shall be grateful if before taking any decision I am called over for discussion".

Therefore it is evident from the D.O. letter of the then ^{Principal} ~~Chief~~ Collector that although excise duty of tea is exempted in the Finance Bill of 1993 but there was no reduction of workload and finally the entire set up of Customs Sub-Collectorate and Central Excise Collectorate were reorganised thereafter and the Customs Sub-Collectorate was given the status of full fledged Collectorate.

Copy of the D.O. letter dt. 6.9.93 is annexed as Annexure-3.

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6.11. That thereafter the then Collector, Customs and Central Excise, Shillong vide his letter No. C No. 1(16)2/Et/I/92/47703 A dt. 11.4.94 addressed to Deputy Secretary to the Govt. of India, Ministry of Finance, Department of Revenue whereby ~~is~~ a proposal for additional 60 posts in the cadre of Superintendent Group B were sent to the Ministry besides other grades after the reorganisation of the Cumstoms and Central Excise Division.

The relevant portion of the said letter dated 11.4.94 is quoted below :

"As regards the requirement of additional posts ⁱⁿ the executive cadre, it may be mentioned here that as per telephonic direction of Shri K. Viswanathan, Member (AS & N), C.B.E.C., New Delhi vide F. No. 394/72/93-CUS(AS) dated 13.04.93 an extensive study was undertaken by Shri Dalbir Singh, the then Collector-II to identify the additional posts required in the executive cadre for strengthening the Customs formations along the International Land Borders of this Collectorate. Accordingly a detailed proposal regarding the same was forwarded to the Ministry vide D.O.C. No. VIII(25)15/CUS/HQR.PREV/ SH/93/21637-3 dated 21.04.93, addressed to the Member (AS & N), C.B.E.C. New Delhi. In the meantime, due to total exemption of duty on Tea and subsequent re-organisation of the Collectorate and creation 20 posts of Superintendent and 15 posts of Inspectors some additional posts in the executive cadre were available for

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re-deployment along the International Land Border. As things stand now, against the projected requirement (not additional requirement) of 75 Posts of Superintendent, 449 Inspector and 234 Sepoy vide the D.O. letter mentioned above, 15 Superintendent, 169 Inspector and 139 Sepoy have been distributed along the International Land Borders. As such, the additional requirement in the executive cadre stand at - 60 Superintendents, 280 Inspectors and 95 Sepoys."

Therefore it appears from the context of the above letter dated 11.4.94 even after abolition of Excise Duty on Tea and after reorganisation of Customs and Central Excise also after a detailed study: there still requirement of 60 Group B Superintendents under the Commissionerate, Customs and Central Excise, Shillong and the proposal sent to the Ministry under the above letter dated 11.4.94 still under consideration and pending alongwith proposals for increase of sanctioned strength in the cadre of Inspector and Sepoys.

Copy of the letter dated 11.4.94 is whereby proposal for sanction of addition/60 posts was sent to the Ministry is ~~marked as Annexure 4~~ annexed and the same is marked as Annexure-4.

6.12 That the then Principal Collector also observed that the North Eastern Region is prone to smuggling Arms, Drugs and good of foreign origin from the neighbouring countries such as Bangladesh, Myarmar, China etc. Therefore ^{1 Division} besides Customs Preventive, at Imphal, Dimapur, Aiawwl and

set
and Shillong ~~set~~ing up, 3 more Customs Division at
Agartala, Karimganj and Guwahati which was created
for effective control over the smuggling of arms and
and Drugs
ammunitations/in the sensitive North Eastern Region.
It would be evident from the letter of the then Principal
Collector, Eastern Region addressed to the Hon'ble Member
(Anti smuggling), Central Board of Excise & Customs,
New Delhi 110001. The relevant portion of the D.O. letter
No. PC/EZ/RKT/CAL./93 dated 10.7.93 is quoted below :

"As you are aware, the terrorist groups in the
North Eastern Region of the country have been
very active and they have been attacking the
civilians and para-military forces in the
region to create terror and demoralise the
administration. Their sources of finances are
(i) assistance in kind i.e. arms and cash from
unfriendly countries, (ii) extortion of
illegally imposed taxes from the civilians,
banks and various other business establishments,
(iii) kidnapping for ransom and (iv) smuggling
across the border. All these activities have
been viewed with concern at the highest quarters
and even the Cabinet Secretary during his visit
to Manipur had observed that the customs check-
posts along the Border should be augmented.

2. It was for this reason that the Cabinet had
sanctioned some posts for intensification of

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anti-smuggling operations along the Indo-Mynmar Border and authorised the creation of the Customs Divisions at Aizawl, Imphal, Dimapur and Shillong. I had also visited Shillong on 27.9.1993 to consider the further steps that could be taken to effectively tackle the problem of smuggling. I discussed the matter with Shri Lalvulla, Collector of Central Excise and Shri Dalbir Singh, Collector of Customs (Preventive), Shillong and it was felt that there was infiltration of goods not only from the Indo-Mynmar border but also from the Indo-Bangladesh Border and particularly through the States of Tripura and Assam. The recent intelligence gathered also points out to the increased activity of the ISI (of Pakistan) and the possibility of large inflow of arms from Bangladesh into India through these borders. It was, therefore, felt that we cannot intensify our activities only on one front i.e. the Indo-Mynmar border and that equal attention has to be paid to the other points of entry also."

Therefore from the above correspondence it reveals that there is a need to increase additional sanctioned strength in different executive cadres and particularly there is a requirement to increase sanctioned strength in the cadre of Superintendent which is crystal clear from the context of the letter dated 10.7.1993. and also from the other correspondences.

Copy of the D.O. letter dt. 10.7.93 is annexed as Annexure-5.

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6.13. That most surprisingly when there is a proposal for sanctioning the additional posts in different cadres and particularly in the cadre of Superintendent Group B where there is a specific recommendation after detailed analysis for increase of additional sanctioned strength of 60 nos. of posts to the cadre of Superintendent Group B and which was under consideration of the concerned Ministry and Central Board of Excise and Customs. The Ministry of Finance, Department of Revenue, Government of India vide its impugned letter No. F. No. A-11013/23/95 ~~and~~-F.D IV dated New Delhi 7.12.95 have passed an order for diversion of 10 (ten surplus posts of Superintendent and 55 (fifty five) surplus posts of Sepoys from the Commissionerate of Central Excise, Shillong to the Commissionerate of Central Excise, Bhubaneswar with effect from the dates ~~the post~~ the posts are filled up, and it is further stated in the said impugned letter that the surplus post diverted to the Commissionerate of the Central Excise, Bhubaneswar ~~xxper~~ will be filled up by the Commissioner Central Excise, Bhubaneswar as per usual procedure laid down in this regard, and it is also stated that the above surplus posts are abolished/ will be abolished from the date they are lying/will be vacant in the Central Excise Commissionerate, Shillong. It appears that this impugned order was issued with the concurrence of the Financial Adviser (Finance) vide his letter No. F. 4041/FA(F)/95 dated 8.11.95. The context of the letter of the Financial Adviser which was issued on 8.11.95 is not known to the present applicants and the same is not available

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and the copy of the same could not be annexed with this O.A. Therefore the applicants pray that the Hon'ble Tribunal be pleased to direct the respondents to produce the copy of the D.O. letter No.F.4041/FA(F)/95 dated 8.11.95 issued by the Financial Adviser for perusal of the Hon'ble Tribunal and also for proper adjudication of the grievances of the applicants made in this application.

The relevant portion of the D.O. letter dated 7.12.95 is quoted below :

"Subject : Diversion of posts of Superintendents and Sepoys from Commissionerate of Central Excise and Customs Shillong to Commissionerate of Central Excise, Bhubaneswar - regarding.

.....

The President is pleased to order the diversion of 10(ten) surplus posts of Superintendent Central Excise and 55(fifty five) surplus posts of Sepoys from the Commissionerate of Central Excise, Shillong to the Commissionerate of Central Excise, Bhubaneswar with effect from the dates the posts are filled up. The surplus posts diverted to the Commissionerate of the Central Excise, Bhubaneswar as per usual procedure laid down in this regard.

2. The expenditure involved should be met within the budget grant sanctioned for the Bhubaneswar Commissionerate for the financial year 1995-96.

3. The above surplus posts are abolished/will be abolished from the date they are lying/will be vacant in the Central Excise Commissionerate, Shillong.

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Rathindra Kumar Sarker

4. This issues with the concurrence of the Financial Adviser (Finance) vide his D.O. No. F. 4041/FA(F)/95 dated 8.11.95."

The above impugned order was issued by the Deputy Secretary to the Govt. of India, Ministry of Finance, Department of Revenue with the concurrence of Financial Adviser in terms of his D.O. dated 8.11.95. This arbitrary decision for diversion of 10 ~~posts~~ surplus posts of Superintendent ~~of Superintendent~~ of Central Excise appears to be taken without taking into consideration of various correspondences made in between the then Principal Collector and Central Board of Excise and Customs and also with the concerned Ministry. When there is a strong recommendation for sanction of additional posts of Superintendent Group B to the Shillong Commissionerate therefore reduction and diversion of posts from the Commissionerate of North Eastern Region to Bhubaneshwar Collectorate is not at all appears to be in public interest rather the order which was issued in the name of President is taken arbitrarily to facilitate the promotional avenues of the serving staff in the cadre of executive Inspector to the Bhubaneswar Collectorate only and thereby causing irreparable loss to the serving all the Inspectors of North Eastern Region and particularly the present applicants are at this stage badly affected as a result of diversion order of 10 posts of Superintendent. The word "Surplus" used in the Presidential Order dated 7.12.95 with an ulterior motive and with the intention to mislead the serving officers of the Shillong Commissionerate.

Contd. P/22

Ramdhara Kumar Sutar

Therefore interference of the Hon'ble Tribunal is highly solicited in the instant application as entire future prospects of the serving staff of this region is going to ~~xxxxxx~~ destabilized by the impugned Presidential order which was issued arbitrarily to facilitate to a particular Commissionerate depriving the due and legitimate claims and expectations and future promotions of the serving executive inspectors of this region.

*A copy of the impugned order dt. 7.12.95 whereby 10 posts of Superintendent Central Excise diverted to Bhubaneswar Commissionerate is marked as Annexure 6.

6.14 That after abolition of Excise duty on tea, it was and after consideration of tremendous increasing trend of smuggling, goods arms and ammunition through international Border areas it was felt necessary, for reorganisation/re-formation and creation of new divisions, and in this connection it is relevant to mention that Anita Chouhan vide letter F. No. A-11019/148/92-Ad IV dated 17.6.93 as follows :

"It has been now decided to delegate the powers for re-formation/Reorganisation and creation of new divisions in Central Excise Collectorates to Principal Collectors if administratively found necessary subject to the following conditions :

i. The re-formation/Creation of new divisions should be worked out by the Principal Collectors within the existing staff strength only. In exceptional circumstances where it is expected that additional staff is or would be declare for this purpose the matter should be appropriately referred to the board in advance for necessary orders."

And in the process of reorganisation/Reformation and creation

of new divisions, and other details analysis, the then Principal, Collector, Eastern Zone, Calcutta, vide his letter dated 11.4.94 strongly recommended to the Board of Central Excise and Customs, for sanction of additional staff to the Commissionerate of Customs and Central Excise, Shillong and it was particularly recommended, for sanction of additional 60 posts to the cadre of Group B Superintendents.

Therefore it is crystal clear that the Commissionerate of Customs and Central Excise, Shillong at present functioning under staff. Therefore the question of 'surplus' post in the grade of Superintendent as urged in the impugned order dated 7.12.95 does not arise at all, as it appears from the above mentioned correspondences.

6.15 That the Ministry while passing the impugned order for diversion of 10 surplus post of Superintendents Group 'B' from the Commissionerate of Central Excise, to ~~Customs~~ Bhubaneswar the Commissionerate of ~~Customs~~ the Ministry did not clearly mentioned/or identified which post in the cadre of Superintendent Group 'B' are 'Surplus', therefore, the order is ambiguous, motivated, arbitrary and the same is liable to be set aside and quashed.

6.16 That it appears from the letter of the Director (O & MS) under ref. 12/1-OMS/92 dated 25.11.92 the Collector C & C Ex. Shillong was asked to furnish the information regarding growth of man power in all grades, Sub-Optimal distribution of posts, stagnation and promotional avenues etc. He also suggested that the

Contd... P/24

Rathindra Kumar Sankar

federation/Association of all Grades may be consulted while forwarding the above report. However it appears that the Cadre Controlling authority had not given any cognizance of it and the Group 'C' Executive Officers Association Shillong (of which the applicants are members) was never consulted for this purpose.

In this regards the following facts are laid down before Your Honour how the said diversion will have demoralising effect on the present applicants and how this will adversely affect revenue collection, anti smuggling activities anti trafficking in drugs, arms and ammunition of North Eastern Region

- i. The Superintendent Grade 'B' is purely a promotional post, ^{and} the Feeder Grade is Inspector.
- ii. There is a separate Cadre Controlling Authority for each Commissionerate.
- iii. The Customs preventive Commissionerate (N.E. Region) and Central Excise Commissionerate Shillong is having a combined Cadre Controlling Authority and the Commissioner of Central Excise Shillong is the Cadre Controlling Authority for both the Commissionerates.
- iv. If these 10 (ten) posts of Superintendent Grade B are diverted and abolished then the present applicants cannot expect their promotion for the next 5 years or more and there will be no promotion of Inspector to Superintendent Grade

Contd... | 25

Ratnindra Kumar Sarker

B for the next 4 years. This will effect adversely to all the applicants and is likely to demoralise them.

v. The Jurisdiction of the Commissionerate of Customs & Central Excise Shillong is unique and strategic since it covers the whole of N.E. Region ~~consisting~~ consisting of Seven States with International boundaries all along, transcending the boundaries of the States of Meghalaya, Assam, Tripura, Mizoram, Manipur, Nagaland and Arunachal Pradesh leaving only a small corridor with the State of West Bengal.

The topography is rugged, hilly and infrastructure is very poor requiring more man power than any other place of India for efficient functioning. It is also nationally and internationally well recognised fact that drugs, arms and ammunitions are smuggled through the borders (from the Golden Triangle) which ultimately finds its way in the national and international illicit market. Therefore Officers of this Commissionerate at the risk of their lives are also preventing smuggling of these deadly contravened items for the welfare of the nation and its people besides collecting Central Excise Revenue of more than Rs. 800 Crores per year. If these posts are diverted then the over all efficiency, collection of revenue and prevention of smuggling will go down tremendously which will adversely effect the over all

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economic development of the nation. And these will also have demoralising effect on the applicants

How the efficiency of this Commissionerate had gone up after creation of preventive customs Commissionerate and bifurcation of Central Excise & Customs in the year 1993 is evident from the following illustration :

Total Seizure Value (Customs)	
1989-90	Rs. 4.3 Crores
1990-91	Rs. 4.65 "
1991-92	Rs. 5.16 "
1992-93	Rs. 7.32 "
1993-94	Rs. 10.77 "

Therefore after creation of Customs Commissionerate and bifurcation of Central Excise from Customs in the year 1993 seizure value as well as Central Excise Revenue has gone up tremendously.

6.16 The diversion of ten posts of Superintendent Group B otherwise reduces the sanction of this Cadre from 163 to 153. These ten (10) posts will become vacant at the end of 1997 and during the period workload of this Commissionerate is invariably going to increase. Therefore if this order is not held null and void by the Hon'ble Tribunal it will jeopardise all activities of this Commissionerate at present and also in future.

Contd.. P/27

Rashidra Kumar Sardar

6.17 That all the 163 posts of Superintendent Group B are filled up and not a single post is lying vacant, therefore Ministries Observation that 10 posts are surplus is ambiguous, ~~un~~justified and to be quashed.

6.18 That as it appears from the letter of the then Principal Collector (Eastern Zone) letter dated 7.10.93 (PC/EZ/RKT/CAL/93) that he had issued order 2, 3 and 4 of 1993 (order 4/93 was on reallocation of staff between Customs Preventive Collectorate Shillong the The Central Excise Shillong and enclosed with the petition) defining the jurisdiction of 7 Customs divisions of the Customs Preventive Collectorate for the N.E. Region and also to distribute the vehicles, and the staff between the two collectorates. This has been done for increasing the effectiveness of the preventive machinery within the existing resources. It also appears from the said letter this arrangement was only temporary arrangement till proposals for augmentation of the staff, equipment etc. are approved by the Government. Therefore instead of ~~increasing~~ increase in staff strength for augmentation of activities, as recommended by the Principal Collector who had been delegated with all powers for creation of new divisions, re-organisation vide F. No. 11019/148/92-AD-IV of Govt. of India, Ministry of Finance, Deptt. of Revenue dated New Delhi 17.6.93 the Ministry Obliquely diverted and abolished these posts from the Commissionerate of Customs & Central Excise Shillong. Hence the order dt. 7.12.95 is liable to be set aside and quashed.

Contd.. P/28

Partindra Kumar Sarker

6.19 That the North Eastern Region needs extra attention and augmentation from Customs point of view is also re-inforced by the fact that Cabinet Secretary of the Govt. of India during his visit of this Region observed that the Customs Check Post along the border should be augmented.

6.20 That the applicants begs to state that if the aforesaid impugned order of diversion of 10 (ten) posts of Superintendent from Shillong Commissionerate to Bhubaneswar Commissionerate is implemented in that event, the applicants shall suffer irreparable loss in the matter of promotion to cadre of Superintendent Group B. Be it stated that all the applicants are now ~~sex~~ eligible for promotion to the post of Superintendent Group B ~~sexthex~~ in accordance with the seniority list among the Inspectors in the Commissionerate of Customs and Central Excise, therefore interference of this Hon'ble Tribunal is highly solicited to protect the rights and privileges of the present applicants.

6.21. That this application is made bonafide and for the enterest of justice.

7. Reliefs prayed for :

Under the facts and circumstances the applicants prays for the following reliefs :

1. That the impugned order issued under letter No. F. No. A-11013/23/95-AD.IV dated 7.12.95 by the Deputy Secretary, Govt. of India, Deptt. of Revenue, Ministry of Finance, New Delhi for diversion of 10 (ten) posts of Superintendent Group B from the Commissionerate of Central Excise

Shillong to the Commissionerate of Central
Excise, Bhubaneswar be set aside and quashed.

2. That the respondents be directed to consider the cases of promotion of the applicants in all existing and future vacancies which are likely to be occurred in the cadre of Superintendent Group B in the Shillong Commissionerate Central Excise and Customs.
3. To pass any other order/or orders as deemed fit and proper under the facts and circumstances of the case.
4. Cost of the case.

The above reliefs are prayed on the following amongst other.

-G R O U N D S-

1. For that the decision of diversion of 10 posts of Superintendent Group B from Shillong Commissionerate to Central Excise, Commissionerate, Bhubaneswar is taken without considering the findings recommendations and analysis of the Principal Collector, and other correspondences, between the Board of Central Excise and Customs with the Ministry of Finance, Department of Revenue.

Contd... P/30

Rathindra Kumar Sarker

2. For that the impugned order is passed without considering the facts that already there is recommendation for sanction of Additional 60 posts of Superintendent Group B after Reformation and reorganisation of the Shillong Collectorate of Customs and Central Excise.

3. For that after detailed analysis, there is a categorical statement and recommendations of the Principal Collector, Eastern Zone, Calcutta that more posts of Superintendent Group B is required for effective control of illegal movement of arms, ammunition, Drugs and other smuggling activities in the Border areas of North Eastern Region.

4. For that the impugned order dated 7.12.95, if implemented in that event the applicants shall suffer irreparable loss in the matter of promotion to the cadre of Superintendent Group B.

5. For that if the impugned order is implemented in that event there shall be no scope for promotion of applicants, who are now due for promotion as per their seniority position in the cadre of Inspectors.

6. For that the impugned order is passed with the malafide intention to facilitate the promotional avenues of the serving Executive officers of Bhubaneswar Commissionerate.

Contd... P/31

Rathindra Kumar Sarker

7. For that promotion to the cadre of Superintendent Group B is made on the basis of Regional seniority as a result the present applicants are now being deprived owing diversion of 10 (ten) posts of Superintendent Group B.
8. For that the arbitrary decision is taken without consulting the Board of Central Excise and Customs when recommendations are made for sanction of additional posts of Superintendent Group B and particularly when there is a specific recommendation of the Principal Collector, Eastern Zone, Calcutta, the arbitrary order issued under letter dated 7.12.95 is liable to be set aside and quashed.
9. For that the applicants have rendered nearly 14 years of service in the particular cadre of Inspector, therefore the legitimate promotion which are due for the applicants in the cadre of Superintendents Group 'B' cannot be taken away arbitrarily without taking into consideration the factual position as regards cadre strength in the cadre of Superintendents Group B.
10. For that the arbitrary decision of diversion of 10 posts of Superintendents Group B from the Commissionerate Central Excise Shillong to the Commissionerate of Central Excise Bhubaneswar is being taken with an ulterior motive to facilitate the promotional avenue of Inspectors serving in

Contd..P/32

Rathindra Kumar Sarker

Bhubaneswar Commissionerate at the cost of serving Inspectors of North Eastern Region.

11. For that the decision is arbitrary, contrary to the findings, recommendations and also contrary to the factual position as regard retirement of additional posts of Superintendents Group B in the Commissionerate Central Excise Shillong.
12. For that the applicants have accrued a valuable and legal right for consideration to the post of Superintendents Group 'B' in the existing ~~xxxxxx~~ vacancies as well as in the future vacancies. Therefore this right of consideration cannot be taken away by illegally diverting 10 posts of Superintendents Group B from the Commissionerate of Central Excise, Shillong.
13. For that there is no surplus post of Superintendent Group B in the Commissionerate of Central Excise Shillong and the word "surplus" is used to mislead the serving employees of North Eastern Region.
14. For that no consultation is made with the ~~xxxxxx~~ recognized association or with the serving employees of the North Eastern Region in the cadre of Inspectors, therefore the impugned order which have effected the rights for consideration of promotion to Group 'B' Superintendents Posts therefore the impugned order dated 7.12.95 is liable to be set aside and quashed.

Contd... P/33

Rathinrao Kumar Sankar

8. Interim reliefs prayed for :

During the pendency of this application the applicants pray for the following interim order :

1. That the impugned order issued under letter No, F.No.A-11013/23/95-AD.IV dt. 7.12.95 (Annexure-6) be suspended till final disposal of this application.
2. That the respondents be directed to consider the promotion of the applicants to the cadre of Superintendents Group 'B' in the existing and future vacancies till final disposal of this application.

9.

That the applicants declare that the matter is not pending in any other court of law or Tribunal.

10. That the applicants state that there is no any other forum save and except filing this application before this Tribunal.

11. Details of I.P.O.

No. of I.P.O.	:	311328
Date of Issue	:	18-1-96
Issued from	:	G.P.O., Guwahati
Payable at	:	G.P.O., Guwahati

12. Details of Index

An Index containing the details of documents is enclosed.

13. List of enclosures :

As per Index.

VERIFICATION

I, Sri Rathindra Kumar Sarkar, Son of Rabindra Nath Sarkar, aged about 38 years, resident of Fatahil, Guwahati-9, one of the applicants in this application and I am competent to swear this verification do hereby verify that the statements made in paragraphs 1 to 13 are true to my knowledge and those made in paragraphs 1 to 13 are the matters of records derived therefrom which I believe to be true and I have not suppressed any material fact.

And I sign this verification on this the 19th day of January, 1996.

Rathindra Kumar Sarkar
Signature

OFFICE OF THE PRINCIPAL COLLECTOR
CUSTOMS AND CENTRAL EXCISE
CALCUTTA

ORDER NO. 4/93

Dated : 27th September, 1993

Subject : Allocation of staff between CCE & CCP.

Consequent upon the creation of a separate Customs Preventive Collectorate out of the existing Collectorate of Central Excise and Customs at Shillong it has become necessary to distribute the executive staff between the two collectorates. Having regard to the existing workload and the necessity to intensify the antismuggling operations as also to increase the anti-evasion work the total sanctioned strength between the two Collectorates is distributed as under :

GRADE	CENTRALEXCISE COLLECTORATE	CUSTOMS PREVEN- TIVE COLLECTORATE	TOTAL SANCTIONED STRENGTH
Superintendent	108	55	163
Inspector	417	340	757
Havildar	32	27	59
Sepoy	283	255	538

Sd/- R.K.THAWANI
PRINCIPAL COLLECTOR

F. No. II (3) 1/ET/PC-CAL/93

Dated : 27.9.93

Copy to :

1. The Collector of Central Excise & Customs, Shillong.
2. The Collector of Customs (Preventive), Shillong.

Sd/- R.K.THAWANI
PRINCIPAL COLLECTOR

Attentd
Oshu
ADW

F. No. A-11013/18/29-Ad.I
Government of India
Ministry of Finance
Department of Revenue

New Delhi, 16th April, 1993

The Collector of Central Excise,
SHILLONG

Sub : Proposal for creation of a Customs Preventive
Sub-Collectorate for the North Eastern region
with headquarter at Imphal - reg.

Sir,

With a view to strengthening customs network in the North-Eastern region of the country, a proposal to create a Sub-Collectorate of Customs for this region was under consideration of the Government for some time. The Government, after careful consideration, have now approved the proposal. Accordingly, I am directed to convey the sanction of the Government to creation and setting up of a Sub-Collectorate of Customs with headquarter at Imphal under the overall charge of the Collector of Customs and Central Excise, Shillong.

2. The Sub-Collectorate would be headed by an Additional Collector to be stationed at the headquarter at Imphal. One post of Additional Collector from the Collectorate of Customs and Central Excise, Shillong therefore stands diverted with immediate effect for this purpose.

3. The Sub-Collectorate will have divisions at Imphal, Dimapur, Aizawl and Shillong - each under the charge of an Asstt. Collector to be redeployed from the existing strength of the Collectorate of Customs and Central Excise, Shillong.

4. I am also directed to convey the sanction of the President to creation of 93 additional posts in the different grades (Group B and C) for the Imphal Sub-Collectorate, the details of which are shown in the Annexure.

5. Sanction is also hereby accorded for a recurring expenditure of Rs. 35.13 lakhs per annum and non-recurring expenditure of Rs. 12.40 lakhs for the posts mentioned at Annexure.

Contd...P/2

After checked
A. Shukla
P.S.W.

6. This issues with the approval of Financial Adviser (Finance) vide Dy. No. F. 677/FA(F)/93 dated 09.03.93.

Yours faithfully,

Sd/- ANITA CHAUHAN
UNDER SECRETARY TO THE GOVT. OF INDIA

Copy to :

1. PAO concerned
2. P.S. to Chairman (CBEC)/All Members (CBEC)/FA (F)/DFA (EC/JS (Cus)/JS (Admn.)/Dir (Cus)/DS (ad.II)/DS (Ad.III)/US (AS)/US (Ad.III).
3. All Sections under CBEC/AS Section/IFU-III/EFU (B&A)
4. US (Ad.III) for diversion of one post of Addl. Collector, from Shillong to Imphal as per para 2 above.
5. Guard file/Spare copies.

Sd/- ANITA CHAUHAN

UNDER SECRETARY TO THE GOVT. OF INDIA

Attested
Chhita
P.D.W.

BY SPEED POST

D.O. No. PC/EZ-C/T/93
DIRECTORATE GENERAL OF INSPECTION
CUSTOMS & CENTRAL EXCISE
NEW DELHI-110 002

JUNE 09, 1993

Dear Shri Rastogi,

Please refer to the following two D.O. letters addressed to Shri V. Lalvula, Collector of Central Excise, Shillong :-

- i. F. No. A. 11013/93/89-Ad.IV dated 6.4.93 by Anita Chauhan, Under Secretary (Admn.) and
- ii. Letter dated 28.5.93 by Smt. Chitra Chopra, Joint Secretary (Admn.).

and wherein the CCE Shillong has been asked to quantify the staff rendered surplus due to the exemption conferred on tea for payment of excise duty in the last budget. These letters were brought to my notice during my recent visit to Shillong on 7.6.93. I have considered the matter at length and discussed it with the trade as well as the local Collector and I feel that the facts have not been placed in their proper perspective. Hence this letter.

2. Firstly, it is not the case that the Excise Duty on Tea has been fully abolished and that there are no chances of revival of duty on tea as was the case in respect of excise duty on Tobacco. The excise duty on tea has been exempted for various reasons i.e. to encourage the export of tea, by making it competitive in the global market, to reduce the excise duty burden on the Tea Garden owners under the expectation that the benefit will be passed on to the consumers etc. In this context I also want to bring to your notice the statement made by the Union Minister of Civil Supplies, Consumer Affairs and Public Distribution on 7.6.93 that if the excise relief on tea, sugar, etc. are not passed on to the consumers, the same could be withdrawn. (Photostat copy of the statement as appearing in the Times of India, New Delhi Edition dated 8.6.93 is enclosed).

Contd... P/39

*After 1st read
Bhulka
pdw*

Therefore in the background of the situation where the Government is having a rethinking on the question of total exemption of excise duty on tea, it would not be correct to surrender the staff straightaway. The matter would have been different if tea had altogether been taken out from the Schedule to the Central Excise Tariff Act, 1985.

3. Secondly, it would not be correct to say that the staff is idle because of the excise duty exemption. In fact the Central Excise Department has been entrusted with the agency function of collecting the CESS on tea and which is passed on to the Tea Board. During 1992-93 while the total Central Excise duty collection upto 28.2.93 was Rs. 56.93 crores, the Cess so collected was Rs. 9.62 crores. There was no collection of Central Excise Duty or Cess in March 1993. Non-collection of cess in March 1993 was due to Notification No. 258/67-C.E. dated 2.12.1967 (Photostat copy enclosed) whereunder if the tea was exempted from the whole or part of the duty of excise, the Cess leviable under the Tea Board soon realised that they will be loosing about Rs. 15 crores as the revenue from Cess on Tea and therefore moved the Ministry of Finance and accordingly Notification No. 82/93-C.E. dated 2.4.93 was issued (copy enclosed) and the Cess on Tea was restored. We are, therefore, performing the Agency function of collection of Cess on Tea for Tea Board in the same manner as we are doing for other Government Departments under different Acts. Therefore, so long as the Ministry of Agriculture decides to divert the Central Excise Officers with the functions of collection of Cess on Tea and setting up a parallel machinery for the collection of cess, we cannot withdraw or surrender the staff.

4. Lastly, I wish to bring to your notice the fact that the services of the range staff are on and off being requisitioned for supervising the stuffing of Tea in the containers for export. This is due to the insistence of foreign buyers for supply of garden fresh tea as it wells at a premium in the foreign countries. The exporters complain that if the excise staff are unilaterally withdrawn they will have to face lot of hardships, in that the excise staff will have to be brought from long distances to supervise

Attested
Dhaka
pdw

the stuffing. They are of the view that the Department is not a looser since they are collecting merchant over-time for providing such services and it is only the tea industry which will suffer by the withdrawal of staff.

5. You will, therefore, kindly appreciate that there is no decrease in the workload entrusted to the excise staff posted for collection of duty (and now Cess) on Tea. The relief is only nominal and i.e. of not submitting the returns in respect of excise duty collection. The excise staff can be completely withdrawn only if the Government finally abolishes the excise duty on tea and the Tea Board makes its own arrangements for collection of Cess and also if we are not interested in providing any facility to the Tea Exporters. There are two Collectorates under my charge where excise duty on tea is being collected i.e. Shillong and Bolpur (which has jurisdiction over Darjeeling and Jalpaiguri District). I shall be grateful if before taking any decision I am called over for discussion.

With

Yours sincerely,

Enclo : As above

Sd/- R.K. THAWANI

Shri B.C. Rastogi,
Member (P&V)
Central Board of Excise & Customs
New Delhi

Copy to Shri B. Sankaran, Member (Central Excise), Central Board of Excise & Customs, North Block, New Delhi.

2. Shri V. Lalvula, Collector of Central Excise, Shillong-793001.
3. Shri A.K. Dutt. Collector of Central Excise, Calcutta-1. Custom House, M.S. Building 15/1, Strand Road Calcutta-700001 holding additional charge of Bolpur Collectorate.

Sd/- RK THAWANI

PRINCIPAL COLLECTOR : CALCUTTA
(CAMP AT NEW DELHI)

After 1st ed
On 1st Oct
P.D.W

BY SPEED POST

CUSTOMS AND CENTRAL EXCISE : SHILLONG

C.No. I(16)2/ET-I/92/47703A

Dated :-

To
The Deputy Secretary,
Government of India,
Ministry of Finance,
Department of Revenue,
New Delhi

(Attention : Smti Anita Chauhan, Under Secy.)
sir,

Sub : Increase in sanction strength in the grade of
AO/ACAO for preventive Collectorate-reg.

Please refer to Ministry's letter Dy.No. 1093/93-Ad.IV
dated 22.03.94 on the above subject.

Ministry vide order F.No.A-11013/18/89-Ad.IV dated
16.04.93, interalia, sanctioned 1 post of A.O./A.C.A.O.,
11 U.D.C./T.A. and 2 L.D.C. for the newly created Sub-
Collectorate (new Customs (Prev.) Collectorate, N.E.R.) and
its 4 Customs divisions. However, for carrying out the day
to day work, each Customs division requires 1 post of A.O/A.C.
A.O., 10 U.D.C./T.A. and 04 L.D.C. Moreover, for the establish-
ment of the Additional Collector posted at Imphal, 3 U.D.C./T.A.
and 2 L.D.C.s are also required to process and adjudicate the
huge numbers of Customs cases detected in the States of
Manipur, Mizoram and ~~22~~ Nagaland which are vulnerable to
smuggling of drugs, arms and ammunitions, explosives and
contrabands goods. For the C.C.P's office in the ~~figrs.~~ 3 L.I.C.s
will be required.

Again, with the creation of separate Collectorate of
Customs (Prev.), N.E.R., vide Ministry's order F.No. A-11013/
18/ 89-Ad.IV dated 06-10-93, both the Collectorate of
Customs and Central Excise have been ordered to be supported
by a common establishment which has duplicated the work of
Establishment Section of the cadre controlling authority, i.e.
the Collector of Central Excise. To manage the complicated
and voluminous work of the common Establishment Section,
posting of I.A.O is of immediate necessity.

As per the above requirement, additional posts needed
in Ministerial Cadre for this Collectorate are :-

1. A.O./A.C.A.O : 04
1 x 4 -04 (for 4 new Customs division)
1 x 1 -01 (for the common Establishment Section
of the 2 Collectorates)

05

Less - 01 (post sanctioned for the Sub-Collectorate
and 4 new Customs division)

04

*Attached
Bhul
Baw*

2.	U.D.C./T.A.	:	32
10 x 4	- 40	(for 4 new Customs divisions)	
03 x 1	- 03	(for the establishment of the Addl. Collector, Imphal)	
	<u>E:</u>		
	43		
	Less - 11	(posts sanctioned for the Sub-Collector and 4 new Customs divisions)	
	<u>32</u>		
3.	L.D.C.	:	19
4 x 4	-16	(for a new Customs divisions)	
2 x 1	-02	(for the establishment of the Additional Collector, Imphal)	
3	-03	(for C.C.P's Office in Hqrs.)	
	<u>21</u>		
	Less - 02	(posts sanctioned for the Sub-Collectorate and 4 new Customs divisions)	
	<u>19</u>		

As regards the requirement of additional posts the executive cadre, it may be mentioned here that as per telephonic direction of Shri K. Viswanathan, Member (AS & N), C.B.E.C., New Delhi vide F. No. 394/72/93-CUS (AS) dated 13.04.93 and extensive study was undertaken by Shri Dalbir Singh, the then Collector II to identify the additional posts required in the executive cadre for strengthening the Customs formations along the International Land Borders of this Collectorate. Accordingly a detailed proposal regarding the same was forwarded to the Ministry vide D.O.C. No. VIII(25)15/CUS/HQR.PREV/SH/93/21637-3 dated 21.04.93, addressed to the Member (AS & N), C.B.E.C., New Delhi. In the meantime, due to total exemption of duty on Tea and subsequent re-organisation of the Collectorate and creation of 20 posts of Superintendent and 15 posts of Inspector some additional posts in the executive cadre were available for re-deployment along the International Land Border. As things stand now, against the projected requirement (not additional requirement) of 75 posts of Superintendent, 449 Inspector and 234 Sepoy vide

*After 1st ed
Only P.D.V*

W

the D.O. letter mentioned above, 15 Superintendent, 169 Inspector and 139 Sepoy have been distributed along the International Land Borders. As such, the additional requirement in the executive cadre stand at - 60 Superintendents, 280 Inspectors and 95 Sepoys.

Yours faithfully,

Sd/- V. LALVULA 11.4.94
Collector

After checked
Rahul
R.D.W.

PC/EZ/RKT/CAL./93

R.K.THAWANI
PRINCIPAL COLLECTOR

Tel no. 331 9451
331 7901

CAMP : NEW DELHI
OCTOBER 07, 1993

Dear Shri

Subject : Intensification of anti-smuggling work
in the North East/~~East~~ Region.

As you are aware, the terrorist groups in the North Eastern Region of the country have been very active and they have been attacking the civilians and para-military forces in the region to create terror and demoralised the administration. Their sources of finances are (i) assistance in kind i.e. arms and cash from unfriendly countries, (ii) extortion of illegally imposed taxes from the civilians, banks and various other business establishments, (iii) kidnapping for ransom and (iv) smuggling across the border. All these activities have been viewed with concern at the highest quarters and even the Cabinet Secretary during his visit to Manipur had observed that the customs check-posts along the order should be augmented.

2. It was for this reason that the Cabinet had sanctioned some posts for intensification of anti-smuggling operations along the Indo-Mynmar border and authorised the creation of the Customs Divisions at Aizawl, Imphal, Dimapur and Shillong. I had also visited Shillong on 27.9.1993 to consider the further steps that could be taken to effectively tackle the problem of smuggling. I discussed the matter with Shri Lalvulla, Collector of Central Excise and Shri Dalbar Singh, Collector of Customs (Preventive), Shillong and it was felt that there was infiltration of goods not only from the Indo-Mynmar border but also from the Indo-Bangladesh border and particularly through the States of Tripura and Assam. The recent intelligence gathered also points out to the increased activity of the ISI (of Pakistan) and the possibility of large inflow of arms from Bangladesh into India through these borders. It was, therefore, felt that we cannot intensify our activities only on one front i.e. the Indo-Mynmar border and that equal attention has to be paid to the other points of entry also.

Attested
R.K.Thawani
p.s.

3. In fact the seizures of goods show that the quantum of smuggling from across the Indo-Bangladesh border was more than from the Indo-Mynmar border and therefore apart from the 4 customs Divisions sanctioned for prevention of smuggling from the Indo-Mynmar border, we should have some more customs Divisions to take care of the smuggling across the Indo-Bangladesh Border. While at present we have the Land Customs Stations as also the Preventive Posts along this border the supervision over them is exercised by the Assistant Collectors who have also been entrusted with collection of Central Excise revenue. Their attention is, therefore, divided between the Customs Preventive work and the Central Excise Revenue collection and it was felt that we should create purely Customs Divisions so that at the supervisory level the senior officers can concentrate on the anti-smuggling operations alone. Accordingly it was felt that the Divisions at Agartala and Karimganj which are located right on the border can be converted into Customs Divisions and the Central Excise work in these Divisions temporarily transferred to the adjoining Silchar Division till authorisation is given for creation of Additional Divisions.

4. Though the jurisdiction of the Shillong Collectorate extends to the seven States in the North East and it has got borders with Bangladesh, Mynmar, China and Bhutan the topography of the region is such that all the roads from the borders converge at Guwahati and this place, therefore assumes lot of importance for the purpose of exercising proper control over the smuggling activities. This view is also reinforced by the volume of seizures effected in the past few years and wherein it has been noticed that the maximum seizures are effected at Guwahati. It was therefore decided to have extra 3 Customs Divisions at Agartala, Karimganj and Guwahati till such time our proposal for augmentation of the staff, vehicles and equipment are approved by the Government. I have accordingly issued order Nos. 2, 3 & 4 of 1993 (Copies enclosed) defining the jurisdiction of 7 Customs Divisions of

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the Customs Preventive Collectorate for the North-East region as also to distribute the vehicles, and the staff between the two Collectorates. This has been done for increasing the effectiveness of the preventive machinery within the existing resources. This is, however, only a temporary arrangement till our proposals for augmentation of the staff, equipment etc. are approved by the Government.

Yours sincerely,

Sd/- R.K.THAWANI

Enclo : As above

Shri K.Viswanathan,
Member (Anti-Smuggling),
Central Board of Excise & Customs
New Delhi-110 001.

PA-
①
Adv.

F.No. A-11013/23/95-AD.IV

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
DEPARTMENT OF REVENUE

NEW DELHI, THE 7TH DECEMBER, 1995

SUBJECT : Diversion of posts of Superintendents and Sepoys from Commissionerate of Central Excise & Customs Shillong Commissionerate of Central, Excise, Bhubaneswar - regarding.

The President is pleased to order the diversion of 10 (ten) surplus posts of Superintendent Central Excise and 55 (fifty five) surplus posts of Sepoys from the Commissionerate of Central Excise, Shillong to the Commissionerate of Central Excise, Bhubaneswar with effect from the dates the posts are filled up. The surplus posts diverted to the Commissionerate of the Central Excise, Bhubaneswar will be filled up by the Commissioner Central Excise, Bhubaneswar as per usual procedure laid down in this regard.

2. The expenditure involved should be met within the budget grant sanctioned for the Bhubaneswar Commissionerate for the financial year 1995-96.

3. The above surplus posts are abolished/will be abolished from the date they are lying/will be vacant in the Central Excise Commissionerate, Shillong.

4. This issues with the concurrence of the Financial Adviser (Finance) vide his Dy. No. F. 4041/FA(F)/95 dated 8.11.1995.

Sd/- K.C.JAIN
DEPUTY SECRETARY TO THE GOVERNMENT OF INDIA

Copy for information and necessary action to :

1. Chief Commissioner of Central Excise, & Customs, Calcutta.
2. Commissioner of Cen. Excise, Shillong/Bhubaneswar.
3. Pay & Accounts Officer concerned.
4. IEU-III/P.S. to Chairman (EC)/Members (CBSE) JS (Admn)/ D.S (Ad.IV)/D.S. (Ad.II)/DOMS

Sd/- K.C. JAIN
DEPUTY SECRETARY TO THE GOVERNMENT OF INDIA

Attn: Mr. Chandra Adm