

**Central Administrative Tribunal
Principal Bench, New Delhi**

OA No.308/2016

Order Reserved on :01.02.2016
Order Pronounced on:10.02.2016

Hon'ble Mr.Raj Vir Sharma, Member (J)
Hon'ble Mr. K.N. Shrivastava, Member (A)

Shri Lovekesh Sharma,
S/o late Jai Lal Sharma
Preventive Officer (Customs)
Under the Commissioner of Customs
Vishakhapatnam
Presently on deputation under
Chief Commissioner of Customs
Delhi Zone Cadre Control Authority
Central Excise, Customs & Service Tax
C.R.Building, IP Estate
New Delhi-25.

.... Applicant

(By Advocate: Mrs. Meenu Mainee)

Versus

Union of India : Through

1. Secretary
Ministry of Finance
Department of Revenue
North Block, New Delhi
2. Chairman,
Central Board of Excise & Customs
North Block, New Delhi
3. Additional Commissioner,
Cadre Control Authority,
In the Office of Chief Commissioner of
Central Excise C.R.Building

IP Estate New Delhi.

... Respondents

ORDER

By Hon'ble Shir K.N.Shrivastava, M(A)

This OA has been filed by the applicant under Section 19 of Administrative Tribunal Act, 1985. The main relief sought in the OA is that the applicant's deputation with respondent No.3 may be extended till the case involving him in the special CBI Court gets decided. The brief facts of this case are as under:-

2. The applicant was appointed as a Preventive Officer in the year 1989 and was posted to Customs and Central Excise Collectorate, Vishakhapatnam. He was transferred to Customs and Central Excise Collectorate, Delhi on inter-collectorate transfer basis vide Estt. Order No.259/91 dated 06.08.1981 issued by Addl. Collector (P&V), Customs and Central Excise Collectorate, Delhi (Annexure A-2). The Customs and Central Excise Collectorate, Delhi vide corrigendum dated 26.2.1993 converted the deployment of the applicant, along with 15 other Preventive Officers, from inter-collectorate transfer basis to deputation basis (Annexure A-3).

3. The applicant was repatriated to his parent Commissionerate (earlier called collectorate) vide Estt. Order No. 203/2002 issued vide C.No.II-39/6/Et./93/Pt.II dated 20.10.2002. The applicant vide his representation dated 29.12.2003 requested for deferment of his repatriation on some personal ground which was rejected by the department. He reported for duty at Vishakhapatnam Customs on 14.11.2005. He filed OA-1329/2010 before this Tribunal seeking his transfer from Vishakhapatnam to Delhi in view of a CBI case involving him pending in a Special CBI Court. The said OA was disposed of on 29.04.2010 with a direction to the respondents to consider the applicant's representation dated 05.11.2008 and pass a speaking order within 3 months. Pursuant to the said order of this Tribunal, the respondents have passed the order dated 23.07.2010 (Annexure A-8) in which the request of applicant for permanent transfer from Vishakhapatnam to Delhi on the ground of pending legal case, disciplinary proceedings etc. has been rejected. The respondents vide impugned Estt. Order No.154/2015 issued vide C.No.II-13(134)/CCA/Dep/Extn/2015/18515 dated 07.9.2015 (Annexure A-1) have repatriated the applicant to his parent zone i.e. Central, Excise, Customs & Service Tax,

Visakhapatnam Zone. Aggrieved by the said order, the applicant has filed the instant OA.

4. Admittedly, the applicant has earlier worked on deputation basis at Delhi Commissionerate from 1993 to 2005. He came to the Delhi Commissionerate again on deputation for a period of 5 years which ended on 31.12.2015. The respondent No.3, in view of applicant's deputation coming to an end, vide his impugned order dated 7.9.2015 (Annexure A 1) has repatriated the applicant to his parent commissionerate at Vishakhapatnam. The applicant's plea is that a CBI case involving him is pending in a Special CBI court, Delhi and hence he should be allowed to continue in his present posting at Delhi so as to facilitate him to appear before the court, as and when he is called, is absolutely specious. Needless to say that an official, wherever he is posted, can come and appear before any court irrespective of the court's location. The court, while calling the litigants to appear before it, does take into consideration the time required for their travel.

Hence we hold that the OA is devoid of merit and deserves to be dismissed at the admission stage itself. Accordingly, the OA is dismissed. No order as to costs.

(K.N.Shrivastava)
Member(A)

(Raj Vir Sharma)
Member(J)

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