

**CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH**

O.A. No.2430/2017

New Delhi this the 7<sup>th</sup> day of September, 2017

**HON'BLE MR. JUSTICE PERMOD KOHLI, CHAIRMAN  
HON'BLE MR. UDAY KUMAR VARMA, MEMBER (A)**

Vikas Kumar s/o Mohan Lal  
R/o Flat No. M-10-1, Ground Floor,  
Tulsi MansMandir Colony,  
Durgakund, Varanasi,  
UP-221005.

-Applicant

(By Advocate: Mr. Umesh Sharma )

**Versus**

Union of India through:

1. Secretary,  
Ministry of Finance  
Department of Revenue,  
Central Board of Excise and Custom  
Government of India, North Block,  
New Delhi
2. National Academy of Customs Excise and Narcotics  
Through Director,  
NACEN Complex, Sector -29, Faridabad, Haryana  
PIN -121008.

-Respondents

(By Advocate: Mr. Rajeev Kumar)

**ORDER (ORAL)**

**Justice Permod Kohli:**

The applicant has filed this Original Application against the inaction of the respondents in not permitting him to join the training at the respondent no.2 i.e. National Academy of Customs Excise and Narcotics through Director, NACEN Complex, Sector-29, Faridabad, Haryana, after having been selected in the Civil Services,

Examination, 2014 for the Indian Revenue Services (Customs and Central Excise) held by the UPSC in the year 2015. He was given offer of appointment on 17.12.2015 by the respondent no.1 with a direction to communicate the acceptance of the same within 15 days and join the training at the respondent no.2. The applicant has communicated his acceptance in the prescribed format. It is, however, an admitted case that the applicant did not join the training programme as per the offer of appointment within the prescribed time. The applicant, in this regard, has stated that feeling unwell and diagnosed with Hepatitis at his native place in Mirzapur, UP, he underwent treatment there at the local Health Centre of Government w.e.f. 16.01.2016 till 03.03.2016. He has placed the treatment certificate including the OPD Cards dated 16.01.2016, 03.02.2016, 19.02.2016 and 03.03.2016 issued to him as Annexure A-3, A-4, A-5 and A-6. The applicant was also issued a Certificate dated 03.03.2016 for his treatment by the treating doctor, which is placed on record at Annexure A-7. It is stated that he was advised further rest by the Medical Officer for a period of four weeks. Thus, he was unable to report to NACEN (Training Academy) for joining till 03.04.2016.

2. The applicant was served with an Office Order dated 28.12.2015 issued by the respondent no.2 stating therein that Probationers of 67<sup>th</sup> Batch who have failed to report to academy by 28.12.2015 and have sought late joining are directed to join Academy on conclusion of Orientation Module only, i.e., on 11.01.2016 and those who do not join on 11.01.2016 will be asked to go on EOL and would join training with the next batch. Accordingly, the applicant was required to join the training academy till 11.01.2016 but he failed to join. The respondent No.2 then issued a communication dated 01.02.2016 stating that the applicant has not reported physically, and, hence, his request for joining the training programme cannot be considered. However, the applicant reported for joining at the respondent No.2, NACEN on 19.04.2016 but he was not allowed to join rather he was asked to wait till the commencement of the next batch on 12.12.2016. The applicant further submits that he reported for training programme on 12.12.2016 and this time also, he was not allowed to join the training programme. There was some exchange of emails. Thereafter the applicant, vide Annexure A-15 dated 02.01.2017, requested the respondent no.1 to grant the approval of extension of his appointment so that he can

report to NACEN for completing joining formalities. The said request has been declined by the respondent No.2 vide impugned order dated 15.06.2017.

3. The only ground urged in the OA is that on account of his illness, the applicant was prevented from joining the training programme. The applicant also relied upon the office order dated 28.12.2015, the relevant extract whereof is reproduced as below:-

“Therefore, the Probationers of 67<sup>th</sup> batch who have failed to report to academy today i.e. 28.12.2015 and have sought late joining are directed to join the Academy on conclusion of Orientation Module only i.e. on 11.01.2016. Those who do not join on 11.01.2016 will be asked to go on EOL and would train with the next batch.”

Based on the above, it is sought to impress that the applicant was entitled to join the training in the next batch.

4. Since the only ground urged by the applicant for not joining training programme being his illness as explained in para 4.3 and 4.4 of the OA, the Tribunal, vide order dated 25.07.2017, directed the applicant to place on record the test report that he was suffering from hepatitis. From the OPD cards, it only reveals that some tests were prescribed for diagnoses. However, despite direction of the court,

the applicant could not place on record the relevant test reports or confirmed diagnoses to show that he was actually suffering from hepatitis which prevented him to join the training programme. It is also noticed from letter dated 28.12.2015 that the probationers of 67<sup>th</sup> batch, who failed to report to academy by 28.12.2015 and sought late joining, were directed to join the academy on conclusion of Orientation Module only i.e. on 11.01.2016 and if they do not join by 11.01.2016 they will be asked to go on Extra Ordinary Leave (EOL) and concerned trainee would go with the next batch.

5. It is an admitted position that the applicant failed to join at the respondent no.2 (NACEN Faridabad). He also did not apply for EOL. The applicant again reported for joining of the training in December, 2016 but was not allowed to join the training on the ground that his offer of appointment has lapsed. The applicant has made request to the respondents to revalidate his offer of appointment. For the first time, the applicant approached the respondents on 08.04.2016 for his training at the institute with medical certificate as given by the

doctors treating him. He was not allowed to join the training on the ground that he could join the training with the next batch on 12.12.2016. Assuming it be so, the applicant was required to seek EOL till commencement of the next batch. Since the applicant neither joined nor sought permission from the respondent no.2 to join the next batch and thus EOL could not be granted to him. In any case, there is nothing on record to show that the applicant has applied for EOL to join the training with the next batch.

6. In this view of the matter, we are of the opinion that the respondents have rightly declined the prayer of the applicant to join the training programme. We do not find any merit in the OA and the same is accordingly dismissed.

**(Uday Kumar Varma)**  
**Member (A)**

**(Justice Permod Kohli)**  
**Chairman**

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