

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No. 040/00370/2018

Date of Order: This, the 22nd day of November 2018

THE HON'BLE SMT. MANJULA DAS, JUDICIAL MEMBER

THE HON'BLE MR. N. NEHSIAL, ADMINISTRATIVE MEMBER

Shri Gautam Das
Assistant Commissioner
CGST & Central Excise
Guwahati Commissionerate
Bhangagarh, Guwahati – 5.

...Applicant

By Advocates: Mr. S. Nath & G.J. Sharma

-Versus-

1. The Union of India
Represented by the Secretary to the Government of India,
Department of Revenue, Ministry of Finance, New Delhi –
110001.
2. The Chairman,
Central Board of Excise and Customs Ministry of Finance,
Department of Revenue, North block, New Delhi – 110001.
3. The Chief Commissioner,
Customs, Central Excise and Service Tax, N.E. Region,
Shillong Zone, Crescence Building, M.G. Road, Shillong –
793001.
4. The Commissioner
Central GST and Customs, Office of CGST
Commissionerate, G.S. Road, Guwahati – 5.

...Respondents

By Advocate: Mr. S.K. Ghosh, Addl. CGSC

O R D E R (ORAL)**MANJULA DAS, JUDICIAL MEMBER:**

By this O.A., applicant makes a prayer for a direction upon the respondent No. 2 to issue posting order on behalf of him against any of the existing vacancy of Assistant Commissioner at Guwahati under the Guwahati CGST and Central Excise Commissionerate in modification of impugned order dated 26.05.2017 so far the applicant is concerned. Further prays to direct the respondent No. 2 not to implement the impugned order dated 09.10.2018 so far the applicant is concerned.

2. Mr. S. Nath, learned counsel appearing on behalf of the applicant submits that applicant joined at Guwahati GST & Central Excise Commissionerate on 17.08.2018 and has completed 1 month 12 days service in Guwahati. According to Mr. Nath, the impugned order dated 09.10.2018 has been issued at the middle of academic session of daughter of the applicant who is in Class VIII at Guwahati under the CBSE course which is in violation of the law laid down by the Hon'ble Supreme Court in the case of **Director of School Education Vs. O. Kuruppa Thevan, [1994 Supp (2) SCC 666]**.

3. Mr. Nath further submits that there is no administrative exigency in issuance of the impugned order dated 09.10.2018 and restoring order dated 26.05.2017. As such, impugned order dated 09.10.2018 restoring order dated 26.05.2017 so far the applicant is concerned is liable to be set aside and quashed. Representation made by the applicant on 10.10.2018 for his posting in Guwahati GST and Central Excise is also pending for disposal. Accordingly, learned counsel for the applicant prays for disposal of the said pending representation dated 10.10.2018 and till the academic session of the ward is over, applicant shall not be disturbed from his present place of posting at Guwahati.

4. On the other hand, learned Addl. CGSC for the respondents Mr. S.K. Ghosh submits that he has no objection if a direction is issued to the respondents to dispose of the pending representation made by the applicant on 10.10.2018.

5. In view of the above, by accepting the prayer made by the learned counsel for the parties, we direct the respondents to dispose of the pending representation dated 10.10.2018 within a period of three months from the date of receipt copy of this order keeping in mind that daughter of the

applicant is studying in Class-VIII in Kendriya Vidyalaya, Narangi, Guwahati.

6. It is made clear that, whatever decision to be arrived by the Respondent Authorities, shall be reasoned and speaking and shall be communicated to the Applicant forthwith.

7. Respondents are directed to retain the applicant at CGST & Central Excise, Guwahati till the Academic Session of the applicant's daughter is over.

8. With the above direction, O.A. stands disposed of accordingly at the admission stage itself. No order as to costs.

(N. NEIHSIAL)
MEMBER (A)

(MANJULA DAS)
MEMBER (J)