

CENTRAL ADMINISTRATIVE TRIBUNAL
MADRAS BENCH

Dated the 08th Friday of November Two Thousand And Nineteen

PRESENT:

THE HON'BLE MR. P. MADHAVAN, MEMBER(J)

THE HON'BLE MR. T. JACOB, MEMBER(A)

M.A./310/695/2019

in &

O.A.310/1487/2019

1. B. Suja, Aged 49 years,
W/o. K. N Anil Kumar
Formerly Assistant Registrar,
Customs Excise & Service Tax,
Appellate Tribunal, Chennai-600 006
Perumbavoor- 683 542
Ernakulam District..
(By Advocate: Mr. M. Velmurugan)

....Applicant

Vs.

1. Union of India Rep. by
The Secretary to Government of India,
Ministry of Finance, Department of Revenue,
New Delhi- 110 001;
2. The Secretary to Government of India,
Ministry of Personnel, Public Grievances and Pensions,
Department of Personnel & Training,
New Delhi-110 001;
3. The Customs, Excise & Service Tax,
Appellate Tribunal, West Block no.2,
R.K. Puram, New Delhi- 110 006 through its Registrar.

.....Respondents.

(By Advocate: None)

ORAL ORDER

(Pronounced by Hon'ble Mr. P. Madhavan, Member(J))

MA has been filed by the applicant seeking permission to condone the delay of 412 days in filing the OA is allowed Registry is directed to register the O.A.

2. The OA is filed by the applicant seeking the following reliefs:-

“(i) set aside the order of the 3rd respondent dated 20.09.2017 in Annexure A27 as arbitrary and contrary to law and consequently direct the respondent to reconsider the representation (Annexure A22) dated 10.11.2016 and to pass appropriate orders thereon within a time frame as might be found just and convenient by this Hon'ble Tribunal

(ii) call for the records leading to the issue of Annexure A27 and quash the same;

(iii) Award costs of and incidental to this application;

(iv) pass such other orders or directions as deemed just fit and necessary in the facts and circumstances of the case.”

3. When the matter came up before the Tribunal, the Counsel for the applicant submitted that the applicant was initially appointed to the Customs Excise & Service Tax, Appellate Tribunal (CESTAT) Bench, Mumbai on 21.1.2003 and, thereafter, she was given transfer to Chennai Bench at the intervention of Ministry of Finance in consideration of her representations for transfer. She was the only woman Assistant Registrar in the CESTAT and she joined at Chennai Bench in the year 2011. Owing to her ailments, she had to take medical leave in the year 2015

(Annexure A3). The respondents there upon transferred the applicant to Allahabad (by respondent No.3) as per order Annexure A4. It was also directed that she has to join Allahabad on or before 28.9.2015. She was also relieved in her absentia on 3.9.2015 (Annexure A/6). She gave representations for reviewing of the order of transfer but were rejected. Since the applicant was on medical leave the respondent directed her to appear before Medical Board by order dated 12.12.2015. The applicant reported before the medical board at Ernakulam. Then the respondent No.3 directed the applicant to undergo examination before a Board at Chennai on 13.1.2016 (Annexure A/14). On 25.2.2016, she was ordered to join at Allahabad as per Annexure A18. The applicant again submitted representations regarding her treatment for consideration to respondent No.3 (Annexure A19). The respondents had put pressure in such a way that she had no other way except to resign. She gave her resignation letter on 08.03.2016 (Annexure A/20). The respondents accepted the same on 27.10.2016 (Annexure –A21).

4. In the meanwhile, her medical condition became better and she applied for withdrawing her request for resignation (Annexure A/22). But the respondents had passed a cryptic order stating that her request for withdrawal is not acceded to (Annexure-A25) on 10.08.17. There was no speaking order, regarding the withdrawal of her resignation.

5. Rule 26(4) of CCS (Pension) Rules provides for withdrawal of resignation. The authority has not considered any of the factors mentioned in Rule 26(4)(i)(ii)(iii) (iv) of the CCS Pension Rules. Her representations are still pending before the respondent No.1. She had given representations to the Hon'ble Ministry of Finance on 28.12.2017 (Annexure A/28) and again to the Secretary to the Government of India, Department of Revenue, Ministry of Finance dated 23.4.2019 (Annexure A-30). Respondent No.1 has not given any reply.
6. The counsel for the applicant submits that applicant will be satisfied if her representation to Respondent No.1 is considered under Rule 26(4) of CCS (Pension) Rules and pass a speaking order after condoning the delay occurred, which the respondent has power.
7. In view of the limited relief sought, the competent authority is directed to consider the representation of the applicant as per Rule 26(4) of CCS (Pension) Rules and relevant circulars and pass a speaking order within a period of four months from the date of receipt of copy of this order.
8. OA is disposed of without going into the merits of the case. No costs.