
(2023) 01 CAT CK 0007

In the Central Administrative Tribunal

Case No : Original Application No. 17 Of 2023, Miscellaneous Application No. 32, 33 Of 2023

Ajay Pathak, Appraiser, Group 'B' & Ors

APPELLANT

Vs

Union Of India & Ors

RESPONDENT

Date of Decision : 03-01-2023

Acts Referred:

Citation : (2023) 01 CAT CK 0007

Hon'ble Judges : Anand Mathur, Member (A); Pratima K. Gupta, Member(J)

Bench : Division Bench

Advocate : M K Bhardwaj, R K Jain

Final Decision : Disposed Of/ Allowed

Judgement

Anand Mathur, Member (A)

1. Learned counsel for the applicants states that the applicants are aggrieved of the relieving order dated 02.01.2023 which has been issued by Assistant Commissioner (Establishment/CCA Airport and General Commissionerate) office of the Commissioner of Customs Airport and General, New Custom House, New Delhi. He claims that the said order suffers from two shortcomings, firstly, that it has been issued by an authority which is not the cadre controlling authority of the applicants and is also lower in rank to the authority which had transferred them from Kolkata to New Delhi. Secondly, the language of the impugned order clearly shows that it has been issued offhand without there being any transfer order transferring the applicants back to Kolkata. He also draws our attention to similar cases which have been handled by a co-ordinate Bench of this Tribunal in OA No. 1583/2021 in which the Tribunal has passed the following order:

"6. In view of the fact that the applicants have recently made a representation, we dispose of the O.A. at the admission stage itself, giving liberty to the applicants to prefer a comprehensive representation within fifteen days. On receipt of such representation, the competent authority shall dispose of the same

by passing a speaking and reasoned order in the light of the decision of the Apex Court in O Karuppa Thevan (supra), within a period of three months thereafter, under intimation to the applicants. Till such time, the operation of impugned order, so far as it relates to the applicants, shall be kept in abeyance. There shall be no order as to costs.”

2. He, therefore, pleads for a similar order in the case of the applicants also. The applicants have preferred representations against the impugned order which are pending consideration before the respondents.

3. Learned counsel for the respondents, on the other hand, mentions that as per the order dated 06.08.2021, the tenure of the applicants was only for one year and in the absence of any extension thereon, they have rightly been relieved. Further, the impugned order also carries a clause that the order has been issued with the approval of the Competent Authority. Therefore, the applicants have no case and the OA is liable to be dismissed on this account.

4. On hearing both the learned counsel and also considering the orders passed by the co-ordinate Bench in a similar case, we find that there is substance in the arguments of the learned counsel for the applicants and in as much as the applicants have already preferred representations before the respondents and the same are yet to be disposed of, we hereby direct the respondents to consider the said representations within two weeks from the date of receipt of a certified copy of this order. Pending disposal of the said representations, the impugned order dated 02.01.2023 is kept in abeyance.

5. MA No. 32/2023 for joining together allowed. OA is disposed of in view the above facts. No order as to costs.

Order dasti.