

**CENTRAL ADMINISTRATIVE TRIBUNAL, MUMBAI BENCH,  
CIRCUIT BENCH SITTING AT AURANGABAD**

**ORIGINAL APPLICATION NO.257 OF 2016**

**Dated this Wednesday, the 11<sup>th</sup> day of December, 2019**

**CORAM : R. VIJAYKUMAR, MEMBER (ADMINISTRATIVE)  
RAVINDER KAUR, MEMBER (JUDICIAL)**

1. Mukesh Kumar, Quarter No.31, Building No.06,  
Staff Quarters Central Excise and Customs,  
Bajarang Chowk, N-7, CIDCO, Aurangabad 431 003.
  2. Bipadtaran Bhui, 16/410 C.G.S. Colony, Sector 7, S.M. Road,  
Antop Hill, Mumbai 400 037. ... Applicants
- (By Advocate Shri S.B.Deshmukh)

**VERSUS**

1. The Union of India, Through Secretary AD-II A,  
Ministry of Finance Department & Revenue,  
North Block, New Delhi 110 001.
  2. The Commissioner of Central Excise, Mumbai -1,  
New Central Excise Building, 115 M.K. Road, Opp.  
Churchgate Station, Mumbai 400 020.
  3. The Commissioner of Central Excise, Customs and Service Tax,  
Aurangabad, N-5 Town Centre, Aurangabad 431 001.
  4. Office of The Additional Commissioner of Customs (Prev.)  
Marine & Preventive Wing Everest House, 2<sup>nd</sup> Floor,  
Marine Drive (W), Mumbai 400 002. ... Respondents
- (By Advocate Shri R.R.Shetty)

**ORDER (ORAL)**

**Per : R.Vijaykumar, Member (A)**

This application has been filed on  
03.03.2016 under Section 19 of the Administrative  
Tribunals Act, 1985 seeking the following  
reliefs:-

“8.1. That, the Hon'ble Tribunal may be pleased to hold and  
declare that the applicants are entitled for promotion as per the  
D.P.C. held on 10/10/2014 as there is mistake in apparently on



the face of record.

8.2. That this Hon'ble Tribunal may be pleased to quash and set aside the impugned Estt. Order No.37/2015 dated 12/03/2015 issued by Resp. No.2 and grant status quo to Estt. Order No.274/2014 dated 11.10.2014 thereby ensuring that financial benefits as Inspectors are restored to the applicants with consequential benefits with effect from their original dates of joining as inspector.

8.3. Any other Just and equitable relief in the interest of justice to which the applicants are found eligible/entitled be granted.

8.4. To award cost of this original application."

2. The applicant was promoted in the year 2014 in Establishment Order No.274/2014 dated 11.10.2014 following the DPC held on 10.10.2014 and after consultations within the respondents, he was reverted in orders of respondents issued in Establishment Order No.37/2015 dated 12.03.2015 to the post of Senior Tax Assistant. Subsequently, some of the applicants senior and applicants were promoted in Establishment Order No.159/2016 based on DPC held on 04.10.2016 consequent to instructions regarding eligibility of his seniors in terms of their age at the time of original promotion considered in 2014. The applicant challenges this reversion order. Subsequently, in Establishment Order No.45/2019 dated 25.03.2019, his seniors who had earlier been considered



ineligible on account of their age in 2014 and had received this promotion in 2016 were granted notional promotion from 2014 following instructions from the Ministry. However, the two applicants along with an officer of intervening seniority were not granted this notional benefit.

3. During the hearing held today, the issue raised by the applicant was discussed at length with both the learned counsels for the parties and with reference to the Establishment Order No.45/2019 issued by the respondents as mentioned above. Further, the learned counsel for the applicant submits across the Bar that three juniors of the applicant had also been granted the notional benefit from 2014 along with their promotions.

4. The learned counsel for the respondents who has received the said orders and the information regarding juniors having obtained the notional benefit only at the stage of final hearing, states that he has no instructions in the matter from the respondents and nor is any official present at the time of hearing to clarify the matter.

5. The learned counsel for the applicant submits that the applicants would be satisfied if the



present OA is disposed of with a direction to the respondents to consider their representations while limiting the request for relief to the aspect of notional benefit from the year 2014 that has been granted both to 16 seniors promoted in 2016 and three juniors promoted around that time.

6. In the circumstances stated by the learned counsel for the applicants and after carefully examining the facts of the matter, it is considered adequate at this stage that the respondents may consider the representations of the applicants already filed with them and an additional representation that the applicants will now file within a period of two weeks from date seeking notional benefit given to the seniors and their juniors and respondents are directed to consider such representations within four weeks and to pass a reasoned and speaking order which may then be communicated to the applicant within two weeks thereafter.

7. In the aforesaid terms, this OA is disposed of without any order as to costs.

(Ravinder Kaur)  
Member (Judicial)  
kmg\*

(R. Vijaykumar)  
Member (Administrative)