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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

OA-689/2001

New Delhi this the 26th day of November, 2001.

Hon'ble Sh. S.R. Adige, Vice-Chairman(A)
Hon'ble Dr. A. Vedavalli, Member(J)

Smt. Vijay Zutshi,
W/o Sh. M.K. Zutshi,
A-5-1 Multi Storied Flats,
R.K. Puram, Sector-X111,
New Delhi-110066. Applicant

(through Sh. M.N. Krishnamani, Sr. Counsel with
Sh. Soumyajit Pani, Advocate)

Versus

1. Union of India through
Secretary (Revenue)
Ministry of Finance,
Deptt. of Revenue,
North Block,
New Delhi.
 2. Chairman,
Central Board of Excise & Customs,
North Block,
New Delhi.
 3. Member(Personnel&Vigilance),
Central Board of Excise & Customs,
North Block,
New Delhi.
 4. Union Public Service Commission,
Shahjahan Road, New Delhi.
 5. Sh. M.K. Zutshi,
Director General of Revenue Intelligence,
Drum Shaped Building,
I.P. Estate,
New Delhi.
 6. Sh. S.K. Choudhury,
Chief Commissioner of Customs
& Central Excise,
41-A, ICE House, Sasson RDoad,
Pune-411001.
 7. Sh. D.K. Acharya,
Chief Commissioner of Customs,
New Custom House,
Ballard Estate, Mumbai. Respondents.
(through Sh. R.R. Bharti, Advocate)
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ORDER (ORAL)

Hon'ble Sh. S.R. Adige, VC(A)

Heard both sides.

2. After hearing both sides, we are of the considered view that this is a fit case, in which, if applicant makes a detailed, self contained representation to respondents regarding her grievances, respondents should consider the same and dispose of the same in accordance with rules and instructions, within three months from the date of its receipt.

3. Respondents' counsel Sh. Bharti states that respondents would have no serious objection in doing so.

4. The OA is disposed of as above. No costs.

A. Vedavalli
(Dr. A. Vedavalli)
Member(J)

S.R. Adige
(S.R. Adige)
Vice-Chairman(A)

/vv/

25.1.2002

MA 60/2002
OA 689/2001

Present : Ms. Vijay Zutshi applicant present in person.

Shri R.R.Bharti, learned counsel for the respondents.

Shri Bharti prays for and is allowed two weeks to file reply to MA 60/2002. List on 18.1.2002.

(Smt. Lakshmi Swaminathan)
Vice Chairman (J)

(S.R. Adige)
Vice Chairman (A)

MA 60/02 in
OA 689/01.

21-1-2002

Present : Ms. Vijay Zutshi, appl in person.
Sh R.R. Bharti, counsel for
the respts.

Heard,

Order Reserved on MA 60/02
by a Bench of Honble Sh S.R. Adige,
J (A) and Honble Sh S. Raju, M(J)

24-1-02

Order pronounced to day
as per court order attached
By above Bench dt 21-1-2002

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V Co

24.1.2002

M.A. No. 60/2002
O.A. No. 689/2001

In the matter of

Mrs. Vijay Zutshi Vs. Union of India & Ors.

Present: Applicant Mrs. Zutshi in person
Shri R.R. Bharti for respondents

Heard both sides on M.A. No. 660/2002 in
O.A. No. 689/2001.

2. In O.A. No. 689/2001 applicant has impugned Respondents' order dated 19.1.2001 rejecting her representation regarding review of her ACRs for the period 1975-76 and 1976-77 and restoration of her seniority as per original seniority list by fixing it above Shri M.K. Zutshi. Consequential reliefs were also prayed, for including promotion to higher posts.

3. After completion of pleadings and hearing of both the parties at some length the O.A. was disposed of by oral orders on 26.11.2001, with a direction that if applicant made a detailed and self-contained representation to Respondents regarding her grievances, Respondents should consider the same and dispose of the same in accordance with rules and instructions within three months from its receipt. Statement of Respondents' counsel was recorded that his client would have no serious objection in doing so.

4. Applicant has since submitted her representation which is awaiting disposal by respondents.

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5. Meanwhile applicant has filed present M.A. No. 60/20002, contending that a vacancy of Member, CBEC is likely to become available on 31.1.2002, ~~and~~ after which there will be no further vacancies at that level till 31.5.2002, and therefore, respondents should be directed to keep the aforesaid vacancy unfilled till applicant's case is decided in terms of the Tribunal's order dated 26.11.2001.


6. Respondents have filed their reply to M.A. in which it has been contended that after final disposal of the O.A. by order dated 26.11.2001, it is no longer open to the Tribunal to entertain such M.As and pass any order/direction in the nature of interim relief as prayed for by the applicant. It has also been contended that the O.A. filed by applicant was basically against her supersession in the promotion made in 1977 from the grade of Assistant Collector to the grade of Dy. Collector with consequential benefits, and she has not succeeded so far, and considering the fate of her representations over the past more than 20 years, there can be no certainty that her representation in pursuance to the Tribunal's order dated 26.11.2001 would necessarily succeed.

7. The prayer for a direction to Respondents to keep the post of Member, CBEC, said to be falling vacant on 31.1.2002, unfilled till the disposal of applicant's representation is rejected, as such a top level post cannot be ordered to be kept


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vacant for any length of time because the public interest would thereby gravely suffer. However, having regard to the provisions of Rule 24 CAT (Procedure) Rules, which empowers the Tribunal to make such orders or give such directions as may be necessary or expedient to give effect to its order or to prevent abuse of its process or to secure the ends of justice, M.A. No. 60/2002 is disposed of observing that in the event applicant's representation addressed to respondents, pursuant to the Tribunal's order dated 26.11.2001 ~~was~~ succeeds, Respondents will not be allowed to plead non-availability of a vacancy at the level of Member, CBEC to deny applicant the relief she claimed.

8. M.A. No. 60/2002 stands disposed of accordingly.


(SHANKER RAJU)
M (J)

/GK/


(S.R. ADIGE)
VC (A)