

10

Central Administrative Tribunal
Principal Bench: New Delhi

OA 2697/96

New Delhi this the 3rd day of October 1997.

Hon'ble Dr Jose P. Verghese, Vice Chairman (J)
Hon'ble Mr S.P.Biswas, Member (A)

Shri B.B.Goel
Inspector
Office of the Commissioner of Central Excise
R/o BC-10-D Munirka
New Delhi - 110 067. ...Applicant.

(By advocate: Mr M.L.Ohri)

Versus

Union of India through

1. The Secretary
Ministry of Finance
Dept. of Revenue
New Delhi.
2. The Commissioner of Central Excise
Central Revenue Building
I.P.Estate
New Delhi.
3. The Chairman
Central Board of Excise & Customs
North Block
New Delhi.
4. Shri Diptiman Choudhary
Supdt., Customs, I.G.I. Airport
New Delhi.
5. Shri Surender Mohan
Supdt., Customs Drawback
New Customs House
New Delhi.
6. Shri Rakesh Swaroop Tandon
Supdt., Customs, IGI Airport
New Delhi.
7. Shri Arun Bhatnagar
Supdt., Customs, IGI Airport
New Delhi. ...Respondents.

(By advocate: Mr R.R.Bharti)

O R D E R (oral)

Hon'ble Dr. Jose P.Verghese, Vice Chairman (J)

The petitioner in this OA was aggrieved by the fact that his juniors who are private respondents have been given seniority over the petitioner wrongly

on two counts. Firstly because the seniority was linked with confirmation and secondly because the respondents were under the impression that during the pendency of the disciplinary proceedings, confirmation may not be effected upon the petitioner.

2. The case of the petitioner is that at the time when his juniors were confirmed w.e.f. 1.9.82, no punishment was awarded against the petitioner who was given the penalty of withholding of one increment for two years without cumulative effect in the year 1983. Therefore, according to the petitioner, his seniority vis-a-vis his juniors prior to inflicting such a punishment could not have any effect on the petitioner.

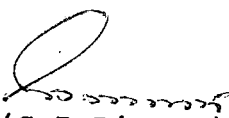
3. Counsel for the respondents states that his seniority happened to be disrupted due to the fact that at the time when the benefit of confirmation was given to the juniors, the petitioner was found not fit due to the pending disciplinary proceedings.


4. Counsel for the petitioner brought to our notice a decision of the Hon'ble Supreme Court in Mohd. Habibul Haque Vs. UOI & Ors 1995 SCC (L&S) 777 wherein it was held that punishment of reduction of pay scale for one year with cumulative effect does not have the effect of reducing seniority of the employee. We find that the said decision goes one step higher in that the seniority of the petitioner could not be lost. Even after the punishment of reduction in scale of pay for one year was passed, in

the case of the petitioner, the punishment was for two years of withholding of increment with cumulative effect.

5. We are of the opinion that the seniority of the petitioner should be reconsidered in accordance with original seniority vis-a-vis his juniors. Counsel for the petitioner cited before us another decision of the Supreme Court in Shiv Kumar Sharma V. Haryana State Electricity Board 1988 Suppl. SCC 669 wherein it was held that the seniority of the petitioner therein required to be placed above the juniors inspite of punishment of a minor penalty of stoppage of one increment.

6. In the circumstances, respondents are directed to re-cast his seniority as far as the petitioner is concerned. In the light of the observations and the decisions above, the petitioner will be entitled to all consequential benefits in accordance with law, except arrears of pay. OA is disposed of.


(S.P. Biswas)
Member (A)


(Dr. Jose P. Verghese)
Vice Chairman (J)

aa.