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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI

OA No. 2097/59

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *Yes*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. To be circulated to all Benches of the Tribunal? *No*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI

OA NO. 2097/89

DATE OF DECISION: 21.5.1990

SHRI KARANJIT SINGH

APPLICANT

SHRI MADHAV PANIKKAR

ADVOCATE FOR THE APPLICANT

VERSUS

UNION OF INDIA & OTHERS

RESPONDENTS

SHRI P.H. RAMCHANDANI,

SR. COUNSEL FOR RESPONDENTS.

CORAM:

THE HON'BLE MR. T.S. OBEROI, MEMBER (J)

THE HON'BLE MR. I.K. RASGOTRA, MEMBER (A)

J U D G E M E N T

(Delivered by the Hon'ble Mr. I.K. Rasgotra, Member(A))

Shri Karanjit Singh has filed this application under Section 19 of the Administrative Tribunals Act, 1985; aggrieved by the Memorandum dated 21.9.1989 at Annexure 16 (page 43 of the paper book) issued by the Collector of Customs, Customs House, Madras (Respondent No.4) rejecting the request for revival of the offer of appointment on the ground that it was not made immediately after cancellation on 13.2.1989.

2. The facts of the case, briefly, are that the applicant was selected for appointment as a Preventive Officer in the

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office of Collector of Customs, Madras through the 1987 examination held by the Staff Selection Commission (SSC). The offer of appointment dated 20.9.1988 made to the applicant provided that he must report for duty before 12.10.1988. The applicant sent his willingness to join the service vide his letter dated 8.10.1988 and simultaneously advised the respondents that there was a criminal case pending against him in the District Courts, Delhi. If there was any objection to his appointment, the department, during the pendency of the case, may grant him extension of time to join the duties. The request of the applicant was granted by the respondents vide their letter dated 3.11.88, Annexure-3 (page 18 of the paper-book) directing the applicant

"to report for duty on or before 2.1.1989. You are also informed that you will be allowed to report for duty only after free from all angles to become suitable for Government service."

Since the criminal case was dragging, the applicant again wrote to the respondents on 15.12.1988, seeking further extension upto 30.6.1989 to join at Madras by which time he hoped to be free from all angles to become suitable for Government service. This was followed up by a reminder of 14.2.1989. Thereafter, the respondents, advised cancellation of the offer of appointment vide Memo dated 13.2.1989 at Annexure VI (page 24 of the paper book) for the post of Preventive Officer offered in their office Memorandum dated 20.9.1988 as he had not joined duty by 31.12.1988. He was further directed to contact the Staff Selection Commission, New Delhi. The applicant made a detailed

representation to the Chairman, Staff Selection Commission on 11.4.1989 explaining the circumstances of his case leading to cancellation of his letter of appointment and requested for reconsideration and withdrawal of letter of cancellation dated 13.2.1989. The Staff Selection Commission reacted promptly and advised the applicant that SSC only recommend candidates on the basis of the competitive examination and that the candidate thereafter is governed by the standard rules applicable in the concerned department Annexure-VIII (page 29 of the paper-book). The Commission, therefore, advised the applicant to approach the Customs House, Madras, in the matter. The applicant brought the advice received from the SSC to the notice of Collector of Customs, Madras and sought his intervention in the matter. This culminated in the impugned order of 21.9.1989, where the request of the applicant for revival of offer of appointment was rejected.

3. The case of the applicant is that the rejection of his request for revival on the ground that he did not request for such revival immediately on cancellation was not justified as the applicant was first directed by the respondents, to contact the Staff Selection Commission, New Delhi which he did promptly. He addressed the respondents for revival of offer of appointment soon after he received the communication from the Staff Selection Commission to explain to him the correct position in such matters. The applicant was not told that he had to represent for revival of offer of appointment within the stipulated period.

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The applicant was later appointed as Preventive Officer on the basis of the examination held by SSC in 1988. In the circumstances, the applicant has prayed that order dated 21.9.1989 passed by respondent No.4 rejecting the revival of his offer of appointment should be quashed with the direction to the respondents to refix his seniority retrospectively with consequential benefits.

4. The learned counsel for applicant contended that the Department of Personnel and Training's OM dated 6th June, 1978 (page 38 of the paper book) provides that the appointment letter issued by the Ministries/Departments should clearly indicate that the offer will lapse if the candidate did not join within a specified period not exceeding two or three months. If, however, within the stipulated period a request is received from the candidate for extension of time it may be considered by the Ministry/Department and if they are satisfied, an extension for a limited period may be granted. The total period of extension during which the offer of appointment will be kept open should not exceed a period of 9 months. The said circular further provides that "an offer of appointment which has lapsed should not ordinarily be revived later except in exceptional circumstances and on grounds of public interest." The learned counsel submitted that the applicant was acquitted in the criminal case pending against him vide the Additional Sessions Judge, Delhi's decision on 7.4.1989 i.e. before the expiry of 9 months period stipulated in the Department of Personnel & Training O.M. dated 6.6.1978 and pleaded that the communication

dated 3.11.1988 extending the period of reporting for duty to 2.1.1989 also mandated that the applicant should be free from all angles before he joins duty. On receipt of the said communication the applicant brought to the notice of concerned authority the next date of hearing of the case pending against him and sought further extension. The communication dated 13.2.1989 is also bad as it cancelled the offer of appointment on account of the applicant having not joined duty on 31.12.1988 although vide communication dated 3.11.1988, the applicant was granted extension to join duty on or before 2.1.1989. He further argued that the Department of Personnel and Training OM dated 6.6.1978 provides for extension of time in exceptional circumstances, based on the facts and circumstances of each case. A reasonable view in this case would have been to grant extension of time up to 9 months or till the criminal case is decided, whichever is earlier.

5. The respondents in their written statement have generally corroborated the facts of the case as given in the paragraph 2 above. In addition it has been brought out that the applicant was involved in the case of conspiracy of his Sister-in-law's murder who caught fire accidentally while preparing lunch on 6.5.1985. Admittedly, the applicant frankly disclosed the circumstances of the criminal case pending against him to the respondents in the very initial stage voluntarily. There was a typographical error in their communication dated 13.2.1989 cancelling the offer of appointment which instead of indicating

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that the applicant did not join duty by 2.1.1989, gave the date as 31.12.1988. They have averred that the granting of extension of period for reporting for duty is the prerogative of the deciding department who have to take into account the facts and circumstances of each case. Therefore, the final decision of cancelling the offer of appointment is neither illegal nor unreasonable.

The learned counsel for the respondents emphasised that the power to grant extension of period for joining duty is to be exercised by the competent authority in public interest. The post of a Preventive Inspector, cannot be kept vacant indefinitely and therefore public interest, demanded that the vacancy is filled up without waiting for the candidate beyond a reasonable period. The learned counsel further submitted that the office memorandum dated 6th June, 1978 is applicable in the case of candidates who are recommended by the UPSC for appointment to Central Civil Service, and therefore, the case in question is not covered by the said office memorandum.

We have heard the learned counsel of both the parties and considered the record before us carefully. While granting the extension of time to the applicant upto 2.1.1989 to report for duty, the respondents had also laid down the condition that "you will be allowed to report for duty only after being free from all angles to become suitable for Government service." In view of this condition the applicant took timely action in keeping the respondents advised of the progress of the criminal

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case pending against him and by seeking further extension. The applicant was further given a wrong lead by directing him to contact the SSC, New Delhi in the letter of cancellation. It was in fact the Collector of Customs, Madras who had to give the final decision in the matter. The Staff Selection Commission had no role to play once a decision had been taken to cancel his appointment in public interest. After this, there was no alternative available to the applicant but to wait for further action until he gets an answer from the Staff Selection Commission. The SSC vide their memorandum dated 20.4.1989 explained the correct position to the applicant and on 1.5.1989 the applicant approached the Collector of Customs, Madras.

The Department of Personnel and Training's (DOP&T) OM No.9123/71-Estt(D) dated 6th June, 1978 not only relates to the candidates recommended by the UPSC but also to other authorities. In fact the opening paragraph of the OM clarified:

".....

and to say that relative seniority of direct recruits appointed on the recommendations of the UPSC or any authority....."

Thus, the applicant's case made for extension of time on the basis of the 1978 instructions of the DOP&T is not misplaced.

In the facts of the case public interest in the cancellation of letter of appointment does not seem to be justified as the vacancy caused due to the cancellation had not been filled up by obtaining additional nomination from the SSC.

Further the fact that the applicant is presently working in the Customs department as a Preventive Officer on the basis of the SSC's examination held in 1988, placed his suitability for the post beyond any doubt. It is obvious that the department has no reservation as such in accepting the candidate perhaps, on this account.

8. In the facts and exceptional circumstances of the case we are of the view that the rejection of the request for revival of the offer of appointment to the applicant vide Memorandum No. S.II/7/88-Estt dated 21.9.1989 is not just and reasonable and is therefore set aside. We further, direct that:

- i) the applicant should be given notional seniority as per 1987 SSC examination in accordance with the normal rules keeping in view the fact that he would have joined duty only after he had been acquitted by the District Court, Delhi.
- ii) No monetary benefit by way of pay and allowance etc. shall accrue to him.

There shall be no orders as to the costs.

*I.K. Rasgotra*  
 (I.K. Rasgotra)  
 Member (A) 21/5/90

*T.S. Oberoi*  
 21.5.90  
 (T.S. Oberoi)  
 Member (J)