

**Central Administrative Tribunal
Principal Bench, New Delhi**

O.A. No.2859/2018

This the 8th of October, 2020

(Through Video Conferencing)

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Mohd. Jamshed, Member (A)**

Mr. Yashpal Aswal
S/o Mr. M.S. Aswal
R/o 4390/B-5&6 Vasat Kunj,
New Delhi-110070, Age about 57 years
Presently posted as Superintendent (Group B)
Office of the Commissioner of GST Audit, Central
Taxes Commissionerate,

...Applicant

(By Advocate: Smt. Harvinder Oberoi)

VERSUS

1. Union of India through its Secretary
Ministry of Finance, Department of Revenue
North Block, New Delhi.
2. The Chairman
Central Board of Indirect Taxes and Customs
Formerly Central Board of Excise and Customs
North Block, New Delhi
3. The Chief Commissioner (DZ), Central Tax GST/
Central Excise, C.R. Building
I.P. Estate, New Delhi.
4. The Additional Commissioner (DZ Cadre Control),
Central Tax, GST-/Central Excise,
C.R. Building, I.P. Estate, New Delhi.

...Respondents

(By Advocate: Dr. Ch. Shamsuddin Khan)





O R D E R (Oral)

Justice L.Narasimha Reddy, Chairman

The applicant was selected and appointed as Inspector of Central Excise. On 20.08.2019, he got transferred to Delhi Commissionerate (for short, Zone) on request. It is stated that on 30.09.1996 substantial number of posts of Inspectors were upgraded to posts of Superintendents, to avoid stagnation. The selection for that purpose has also taken place. The eligibility for promotion is, standing of 8 years in the post of Inspector.

2. The question arose as to whether in the context of reckoning the 8 years of service the one rendered by an Inspector, in the Zone to which he was allotted as well as the one, to which he was transferred, is to be counted, or the one in the Zones, to which transferred alone, is to be counted. In **I.C.Joshi Vs. Union of India**, the Chandigarh Bench of this Tribunal in OA.338/2012 held that for the purpose of promotion or upgradation to the post of Superintendent, by way of selection, the service of an Inspector who is transferred to one zone to another, albeit, on request must be the aggregate of the service rendered in both the zones. It is stated that similar judgements were rendered in other Benches also and they were upheld by the Hon'ble Supreme Court. It is also stated that the Ministry of



finance itself issued memo dated 02.08.2017. This OA is filed with a prayer to direct the respondents to implement the said order dated 03.08.2017.

3. The applicants contend that they stand on the same footing as the applicants in the case of **Balvinder Singh Mathur**, before Chandigarh Bench of this Tribunal. They contend that though they were promoted in the year 2006, they were entitled to be promoted to that post in the year 2002 itself.

4. The respondents filed counter affidavit opposing the OA. It is stated that the applicants are not similarly situated as the parties in **I.C.Joshi v. Union of India** and in the case of **Balvinder Singh Mathur**, and that no junior to the applicant in the Delhi Zone were promoted earlier to their promotion. Various contentions urged by the applicants are denied.

5. We heard Smt. Harvinder Oberoi, learned counsel for the applicants and Dr. Shamshuddin Khan, learned counsel for the respondents.

6. The applicants were appointed as Inspectors in the Customs and Central Excise in 1985 and were allotted to various zones. It is on their request, that they were transferred to Delhi



zone in 1999. As in the case of any other request transfer, they have taken their seniority below the Inspectors in the Delhi zone appointed upto the date of their transfer. Five years thereafter quite large number of posts of Superintendents were created and selections have also taken place.

7. Voluminous litigations ensued on the question pertaining to the promotion of Inspectors, particularly those who were transferred to one Zone to another. For example, if a candidate had to his credit, five years of service in a Zone to which has allotted and four years in the Zone to which he was transferred, he may not become eligible to be considered for promotion at all, in case his service in the Zone, to which he is transferred alone is taken into account. If on the other hand, the total service in both the Zones is taken into account, he would become eligible. The various OAs filed in different Benches, the attention was only about the addition of service rendered in both the Zones, in respect of inter zonal transferee Inspectors. It was not clarified as to whether even if they acquire eligibility, they must take their turn as per their seniority to the Zone, to which they are transferred. It appears that some Inspectors who were transferred from one zone to another have even got promotion in



preference to their seniors in the Zone to which they were transferred.

8. There is no second opinion, that in the context of deciding the eligibility of Inspectors to be promoted, the service rendered by them in both the Zones needs to be taken into account. In other words the aggregate of service in the Zone to which he was allotted and the one to which he was transferred must be counted. However, when it comes to the question of his turn to be promoted, he has to take it on the basis of his seniority in the Zone to which he was transferred.

9. With this clarification, we direct the respondents to extend the benefit to the applicant in terms of order dated 03.08.2017.

10. The OA is accordingly disposed of. There shall be no order as to costs.

(Mohd.Jamshed)
Member (Admn.)

(Justice L.Narasimha Reddy)
Chairman

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