

CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH, KOLKATA



No. O.A. 350/00655/2020

Date of order: 18.9.2020

Present. : Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Dr. Nandita Chatterjee, Administrative Member

Shri Sanjib Sarkar,
Son of Late Jyotish Chandra Sarkar,
Aged 49 years,
By Occupation – Inspector (Examiner) of Customs,
Residing at Subhas Pally (South),
P.O. – Khalisani,
Chandannagore,
Dist. – Hooghly,
Pin – 712138.

.....Applicant

-Versus -

1. Union of India,
Service through the Secretary to the
Government of India,
Ministry of Finance,
Department of Revenue,
North Block,
New Delhi – 110 001.
2. The Chairman,
Central Board of Indirect Taxes & Customs (CBIC),
North Block,
New Delhi – 110 001.
3. The Chief Commissioner of Customs,
Kolkata Zone,
Customs House,
15/1, Strand Road,
Kolkata – 700 001.
4. The Principal Commissioner of Customs
(Airport & Administration),
Customs House,
15/1, Strand Road,
Kolkata – 700 001.

.....Respondents

For the Applicant : Mr. A.K. Manna, Counsel

For the Respondents : Mr. A. Roy, Counsel
Ms. A. Rajyashree, Counsel

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ORDER (Oral)Per Dr. Nandita Chatterjee, Administrative Member:

The applicant has approached this Tribunal under Section 19 of the Administrative Tribunals Act, 1985 praying for the following relief:-

- "a) An order holding that the post of STA exists till supersession of STA RR, 2003 by EA RR, 2015 coming into effect on 28.9.2015.
- b) An order holding that applicant's promotion to the grade of Inspector vide Establishment Order No. 210/2014, dated 30.9.2014 on the basis of Inspector RR, 2002 and STA RR, 2003 is legal and proper, and the same is not liable to be reviewed.
- c) An order quashing/setting aside the impugned Board's July' 2019 and Board's letter, dated 27.7.2020, to the extent, clarifying therein that STA post does not exist beyond 18.12.2013 and the same cannot be a feeder grade of Inspector beyond 18.12.2013.
- d) An order quashing/setting aside the impugned Board's July'2019 letter, to the extent, clarifying therein that for the vacancy year 2014-2015 and onwards any promotion from the grade of STA to Inspector on the basis of RRS of Inspector, 2002 is irregular, and requesting there the Respondent No. 3 to take necessary action.
- e) An order giving direction upon the Respondent No. 2 to withdraw/cancel/rescind Board's impugned letter, dated 27.7.2020 being inconsistent with its earlier instructions contained in its letter dated 2.8.2016 as subsequent clarification does and/or can have only prospective effect, if sustainable in law, at all.
- f) An order holding that no action is warranted arising out of Board's letter dated 1.7.2019 in so far as it relates to the Board's impugned July'2019 letter.
- g) Any other order or further order/orders as to this Hon'ble Tribunal may deem fit and proper."

2. Heard both Ld. Counsel, examined documents on record. This matter is taken up for disposal at the admission stage.

3. Ld. Counsel for the applicant would submit that the applicant was initially appointed with the respondent authorities in the Grade of LDC and promoted to the grade of STA. The applicant was, thereafter, promoted to the Grade of Inspector (Examiner) on 30.9.2014 on the basis of recruitment rules of Inspectors 2002 and RR for STA, 2003 and, in compliance with guidelines contained in DOP&T O.M. dated 6.9.2007,

and in Board's letters dated 18.7.2013, 22.4.2014, 11.8.2014, 25.8.2014 further ratified vide Board's orders dated 2.8.2016.

In the meanwhile, an order for cadre restructuring was issued by the Board on 18.12.2013 declaring the merger of posts of the STA and DOS as EA. The Board issued a further communication on 1.7.2019 thereby withdrawing 11 letters purportedly issued without approval of the competent authority, clarifying further that there cannot be a feeder grade of Inspector after 18.12.2013, and, therefore, any promotion to the grade of Inspector from STA is irregular. Further clarifications on similar lines followed on 27.7.2020 whereby the Board retreated from its earlier clarifications dated 2.8.2016.

The applicant would allege that as he had been promoted to the post of Inspector (Examiner) from STA on 30.9.2014, he was resultantly prejudiced as his promotion itself was called into question.

Being aggrieved, he represented before the authorities at Annexure A-10 to the O.A., which, however, did not merit any consideration from the respondents, and, hence, being aggrieved, has approached this Tribunal in the instant O.A.

Ld. Counsel for the applicant would, therefore, urge that a direction be issued on the concerned respondent authority to dispose of the representation in a time bound manner and, in the light of judgment and orders in W.P. Nos. 21847 & 21858 of 2019 and W.M.P. Nos. 21064, 21065, 21067, 21076, 21081 & 21082 of 2019.

4. Ld. Counsel for the respondents would raise his preliminary objection to the maintainability of the original application referring to the premature status of anticipated cause of action.

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7. Ld. Counsel, however, would not object to disposal of representation in accordance with law.

5. Accordingly, without entering into the merits of the matter, and, with the consent of the parties, we would direct the addressee respondent authority or any other competent respondent authority to dispose of the applicant's representation at Annexure A-10 to the O.A., if received at their end, within a period of 12 weeks from the date of receipt of a copy of this order.

The said authority will decide in accordance with law and should convey such decision in the form of a reasoned and speaking order to the applicant forthwith thereafter.

Till such time that the representation is not disposed of, and, if not so implemented, the orders dated 1.7.2019 (Annexure A-9 to the O.A.) should not be implemented in the light of the orders in W.P. Nos. 21847 & 21858 of 2019 and W.M.P. Nos. 21064, 21065, 21067, 21076, 21081 & 21082 of 2019.

6. With these directions, the O.A. is disposed of. No costs.

(Dr. Nandita Chatterjee)
Administrative Member

(Bidisha Banerjee)
Judicial Member

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