

Central Administrative Tribunal
Principal Bench: New Delhi

OA No.2523/91

(15)

New Delhi this the 7th day of May 1996.

Hon'ble Mr A.V.Haridasan, Vice Chairman (J)
Hon'ble Mr R.K.Ahooja, Member (A)

Lachhman Singh
Son of Shri Ghashi Ram
R/o L-528, Wazirpur Colony
Delhi - 110 052.

...Applicant.

(By Advocate: Shri B.K.Gupta)

Versus

1. Union of India through
The Secretary
Ministry of Finance
North Block
New Delhi.
2. The Collector
Central Excise Collectorate
I.P.Estate
New Delhi
3. The Deputy Collector (P & v)
Central Excise Collectorate
I.P.Estate, New Delhi.
4. The Secretary
Staff Selection Commission
Block No.12, CGO Complex
Lodhi Road, New Delhi-110 003.
5. Shri Jagat Singh Tonk
Superintendent, Central Excise Div./MOD-II
C-7 Community Centre
Hauz Khas, New Delhi - 110 016. ...Respondents.

(By Advocate: Shri P.P.Khurana)

O R D E R (Oral)

Shri A.V.Haridasan, Vice Chairman (J)

The applicant who was working as Inspector, Central Excise, is aggrieved by the order dated 20.11.90 to the extent that he was not promoted as Superintendent, Central Excise, while the fifth respondent who was his junior had been promoted and has filed this application seeking to quash the said order to the limited extent and for a direction to the respondents 1 to 3 to consider his case for promotion as Superintendent Gr.'B' of Customs and Central Excise in the pay scale of Rs. 2000-3500 w.e.f. 1.12.90 and to award all consequential benefits including that of seniority, arrears of pay etc.

2. It has been alleged in the application that in the panel prepared after selection as also in the gradation list after appointment, the applicant figured higher up in seniority than the respondent No.5 and that the action of the respondents in promoting the fifth respondent ahead of the applicant is violative of the principle of equality enshrined in the Articles 14 & 16 of the Constitution of India. It is under these circumstances, he has filed this application under section 19 of the Administrative Tribunals Act.

3. The respondents contest the case of ~~the applicant~~. When the application came up for final hearing, learned counsel appearing for official respondents produced before us the panel prepared by the Staff Selection Commission and with reference to the said records, counsel for respondents 1-4 conceded that the applicant was senior to the fifth respondent and also to Shri Ram Chander. Counsel for the fifth respondent also was not in a position to controvert this fact as the same is borne out ^{by} ~~on~~ records. The official respondents seek to justify the impugned promotion of the fifth respondent ahead of the applicant on the ground that it was done on the representation of the fifth respondent on the ground that he was senior to Shri Ram Chander. Now that it has been seen that the applicant was senior to not only Shri Ram Chander but also the fifth respondent, there is no justification for keeping ~~him~~ him out and promoting the fifth respondent by order dated 20.11.90.

4. Under the circumstances, we are of the considered view that the applicant is bound to succeed and ^{to} be considered for promotion to the post of Superintendent Gr.'B' with effect from the date on which his junior the fifth respondent was considered and promoted to the post and also for consequential seniority ~~in that order~~ above the fifth respondent.

5. In the conspectus of the facts and circumstances, we dispose of this application directing the respondents 1-3 to consider the applicant for promotion to the post of Superintendent Gr.'B' with effect from the date on which the fifth respondent was considered and promoted and antedate his promotion to that date if he is ~~un~~ found otherwise not ^{un} suitable with effect from that date and also place him above the fifth respondent if he is so promoted with effect from the date of promotion of the fifth respondent. If the said promotion is given to the applicant with effect from the anterior date, the pay of the applicant shall also be re-fixed notionally. Actual arrears to the applicant ~~would~~ be paid only from the date on which he had ~~assumed~~ charge of the post of Superintendent. The above directions shall be complied with within a period of three months from the date of receipt of this order.

There is no order as to costs.

~~R.K.Ahooja~~
(R.K.Ahooja)
Member (A)

~~A.V.Haridasan~~
(A.V.Haridasan)
Vice Chairman (J)