

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. No. 2736/2004

New Delhi this the 19th day of April, 2005

Hon'ble Shri V.K. Majotra, Vice Chairman (A)
Hon'ble Mrs. Meera Chhibber, Member (J)

Rintu Chakravorty
W/o Shri Sanjeev Chakravorty,
R/o B-7, Sushant Lok, Gurgaon-120001.

-Applicant

(By Advocate: Shri L.R. Khatana)

Versus

Union of India through

1. Secretary to the Government of India,
Department of Revenue, Ministry of
Finance, North Block, New Delhi.

2. Chairman, Central Board of Excise and
Customs, North Block, New Delhi.

3. Commissioner, Directorate of Publicity
and Public Relations, Room No.277,
Customs & Central Excise, CR Building,
ITO, New Delhi.

-Respondents

(By Advocate: Shri Madhav Panikar)

ORDER (Oral)

Hon'ble Shri V.K. Majotra, Vice Chairman (A)

This application has been made alleging non-compliance by respondents with the directions of the Cabinet for filling up all posts on restructuring of different cadres in Customs and Central Excise Department by promotion as one time relaxation in terms of Annexure-I dated 19.7.2001. Applicant has also challenged alleged illegal, arbitrary and discriminatory action of respondents seeking to promote ineligible persons for the post of Inspector by passing the claim of the applicant as eligible person, dehors to statutory recruitment rules as well as Notification dated 29.11.2002 (Annexure-II).

2. Briefly stated the facts of the case are that applicant has been working as Senior Tax Assistant in the Directorate of Publicity and Public Relation, Customs and Central Excise, Department of Revenue. While for Assistant the promotion channel was the posts of Additional Assistant Director (AAD), which is now grouped together and categorized as Superintendent/AAD/SIO Inspecting

Officer. These six posts should have been filled up by promotion as Senior Tax Assistant or the pre-structured posts of Assistants as per guidelines laid down in letter dated 19.7.2001. Learned counsel of applicant stated that applicant has been discriminated against inasmuch as certain candidates though ineligible, such as Smt. Rajlata Panwar- Steno Grade-III, Smt. Sunita Verma, Tax Assistant (T.A.), Smt. B. Vani, T.A., Shri Sanjay Gupta, TA, Shri Ramesh Lal, TA, Shri Pawan Vashisht, TA and Shri Vinod Mamgain, TA, have been allowed to appear in the interview and DPC in violation of guidelines contained in Notification dated 29.11.2002, applicant has been debarred from appearing in the interview. The applicant has sought the following reliefs:-

"(a) The Hon'ble Tribunal may be pleased to call for the records pertaining to the restructuring made vide letter dated 19.7.2001 and the GSR 494 dated 29.11.2002.

(b) The Hon'ble Tribunal may be pleased to quash the recruitment/promotion process initiated by Respondent No.3 to promote ineligible candidates for the post of Inspectors in Central Excise and Land Customs Department.

(c) The Hon'ble Tribunal may be pleased to direct the Respondents to fill up vacant posts in the cadre of Respondent No.3 by promotion as directed by the Cabinet vide orders at para 3 of F.No. A-11019/72/99-AD.IV dated 19th July, 2001 in conformity with rules and principles of natural justice from amongst the persons eligible at that point of time.

(d) The Hon'ble Tribunal may be pleased to quash the provisions regarding unreasonable conditions not related to job requirements in the cadre of Directorate of Publicity and Public Relations.

(e) Pass any other or further order or direction that this Hon'ble Tribunal may deem proper in the facts and circumstances of the case".

3. On 10.11.2004, by way of interim relief, respondents were directed not to promote any incumbent after they were interviewed. Interim orders have been continued from time to time.

4. Learned counsel of applicant conceding that the Central Excise and Land Customs Department, Inspector (Group 'C' posts), Recruitment Rules, 2002 (RRs 2002) (Annexure-II) are applicable to the applicant for promotion to the post of Inspector (Central Excise) pointed out that vide Annexure-II, respondents decided to allow specified ministerial staff with required period of service to be

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considered for promotion subject to fulfillment of conditions regarding completion of required period of service in specified grades as per provisions of Clause (a), (b) and (c) under Column 12 of the Schedule and also subject to conditions specified in Note 1-5 thereunder. He stated that as per Note-I "Promotion under Clause (a) shall be only operative for a period of two years from the date on which the restructured cadres mentioned in Clause (b) above came into existence". He further stated that since the posts under Clause (b) came into existence on 19.7.2001 (Annexure-I), the period of two years expired on 18.7.2003. As such, even the Tax Assistants with 10 years of service can now be considered only after the method of recruitment under Clause (b), fails.

5. Learned counsel further pointed out that basically respondents have not considered the applicant as eligible for appearing in the examination etc. for the post of Inspector of Central Excise stating that she did not fulfill the minimum physical measurement standards set under the recruitment rules. As such, she has not been called for the interview. Learned counsel stated that under Column 8 of the Schedule, height of 152 cms has been prescribed for female candidates for purposes of direct recruitment. He contended that this requirement is not for recruitment by promotion. In any case, he stated that applicant's height is 5 feet, i.e., 152.5 cms, which is recorded on measurement by doctors at RML Hospital, New Delhi at the time of her joining service. In other words, she does fulfill even this criterion.

6. Learned counsel for respondents stated that qualification of 152 cms in height is applicable even for purposes of promotion. Learned counsel stated that respondents would have no hesitation in considering applicant's case if she is found to be having 152 cms of height on measurement by authorized medical authorities.

7. We have considered the respective contentions of the parties as also the material on record.

8. Now that both sides agreed that applicant's case is covered by RRs, 2002, we find that Note-3 under Column 12 of these Rules which relates to Promotion (recruitment among other methods by promotion) states that

candidates are required to pass physical test and conform to the physical standards as specified in Column 8. As per Column 8, the minimum physical height for female candidates is prescribed as 152 cms. In view of the fact that respondents have fairly conceded that in case the applicant has the prescribed height, she shall be considered for being interviewed, It is directed that respondents may refer her to the authorities in RML Hospital for certifying ~~height~~^{height b} and in case she is found to be 152 cms tall, she may be ~~considered~~^{Then b} eligible for consideration for promotion to the aforesaid post and interviewed. If she is found to be fit for promotion, she should be included in the panel at the appropriate place in-conformity with rules and accorded consequential benefits.

9. OA is disposed of as above. No costs.


(Meera Chhibber)
Member (J)

cc.


(V.K. Majotra)
Vice Chairman (A)

19.4.05