

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD.

Allahabad, this the 23rd day of September, 2003.

QUORUM : HON.MR.JUSTICE R.R.K. TRIVEDI, V.C.

HON. MR. D. R. TIWARI, A.M.

O.A. No. 84 of 1997

Arun Kumar Singh S/O Sri Ashutosh Singh R/O Rudhauri, Post
Office Rudranagar, District Basti.....Applicant.

Counsel for applicant : Sri K.C. Sinha.

Versus

1. Union of India through Secretary, Central Board of Excise,
and Customs, Ministry of Finance, New Delhi.
2. Commissioner, Central Excise, Allahabad.
3. Dy. Commissioner, Central Excise, Allahabad.
4. Regional Director, Staff Selection Commission, 8, Beli
Road, Allahabad,.....Respondents.

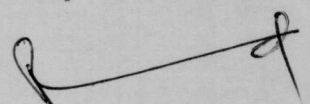
Counsel for respondents : Sri P. Mathur.

O R D E R (ORAL)

BY HON.MR.JUSTICE R.R.K. TRIVEDI, V.C.

By this O.A. filed under section 19 of A.T. Act, 1985, applicant has prayed to quash the order dated 2.5.96 (Annexure-1) by which his representation against his seniority has been rejected and order dated 25.10.96 by which appeal/representation to the higher authority has been rejected.

2. The facts, in short, giving rise to this O.A., are that the applicant was selected in 1985 by Staff Selection Commission for the post of Inspector, Central Excise along with others. The applicant was allocated U.P. Zone. His rank was 536 according to merit. For U.P. Zone, total 104 candidates were named. However, for want of vacancy, only 77 candidates could be appointed in U.P. Zone and remaining 27 candidates were sent to Patna and Bhubneshwar under Patna Collectorate. Out of these 27 candidates, 3 candidates mentioned at Sl.Nos.78, 79 and 80 were general candidates



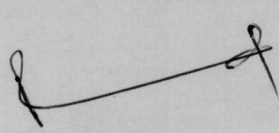
and remaining 24 candidates were Schedule Caste and Schedule Tribes. The applicant joined at Patna as Inspector of Central Excise on 21.10.1986. The Central Board of Excise and Custom by order dated 29.5.86 directed that those SC/ST candidates, who were originally allocated to U.P. Zone and who may have joined Patna and Bhubneshwar Collectorates, may be allowed inter-Collectorate transfer without loss of seniority. The reference number of the order was A-12034/206/85-AD-III-B dated 29.5.86. In pursuance of this order, the candidates shown at Sl.No.81 namely Ravindra Kumar Singh whose rank was 729, was transferred to Allahabad Collectorate by order dated 19.11.86 (Annexure A-6). He joined at Allahabad. Admittedly applicant was senior to Ravindra Kumar Singh as his rank was 536. The applicant also applied for his transfer to Allahabad vide application dated 2.12.86 (Annexure A-7). In this application he claimed that his Zonal preference was U.P. but for want of vacancy, he was transferred to other Collectorate i.e. Patna and Bhubneshwar. Other candidates have been allowed inter-Collectorate transfer and this relief may be granted to applicant also. The applicant made several representations. The applicant was also ^{or allowed} ~~transferred~~ inter-Collectorate transfer by order dated 16.11.87. Copy of the order is annexure A-10. In 1991 seniority list was published in which Ravindra Kumar Singh was shown at Sl.No.935 whereas name of the applicant was shown at Sl.No.1023. In this list, in column No.4, joining of Ravindra Kumar Singh has been shown as 15.10.86 whereas joining of applicant has been shown as 1.12.87. Further, all the reserve candidates of SC/ST, who were transferred from Patna to Allahabad, they were also placed above the applicant. Aggrieved by this, applicant filed representation, which has been rejected by the impugned orders.

3. Learned counsel for applicant has submitted that applicant was similarly situated like other 24 candidates.

who were sent to Patna and Bhubneshwar for want of vacancy at Allahabad. All such candidates have been allowed inter-Collectorate transfer from Patna/Bhubneshwar to Allahabad Collectorate without loss of seniority. However, in case of applicant he has not been given this privilege and has been discriminated and on account of discriminatory attitude ~~and~~ ^{adopted in} violation of Article 14, he has suffered serious loss to seniority though his rank was 536 but he has been put at the bottom among those also, who were selected along with the applicant and they were all allocated U.P. Zone.

4. Learned counsel for respondents, on the other hand, submitted that applicant's application was treated under different consideration as is clear from the file number mentioned in the order whereas remaining candidates were dealt with under different file as their cases were different and applicant has rightly been put at bottom seniority and in such circumstance, there is no question of any discrimination. It is also submitted that the inter-Collectorate transfer took place in 1986 and it cannot be questioned now.

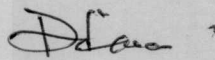
5. We have carefully considered the submissions of counsel for the parties. However, in our opinion, in the present case, applicant has been discriminated. The undisputed facts are that the applicant's rank was higher than the SC/ST candidates, who were sent to Patna and Bhubneshwar for joining as vacancies were not available at Allahabad. The Central Board of Excise and Custom, however, passed order for inter-Collectorate transfer without loss of seniority only in respect of SC and ST candidates. On record, we do not find any distinguishing features on which basis applicant could be denied the same benefit. In our opinion, as the applicant possessed ^{higher} higher ranking in selection, he should have been given preference while allowing inter-Collectorate transfer when the vacancy became available at Allahabad Collectorate in U.P. Zone. In his applications, applicant

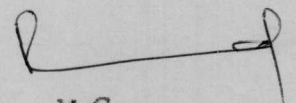


claimed that he should also be allowed inter-Collectorate transfer without loss of seniority as done in case of other 24 candidates, who were sent to Patna and Bhubneshwar for want of vacancy. The respondents, however, have failed to appreciate the genuine grievance of the applicant and he has been allowed to suffer serious loss so far as his seniority is concerned. In our opinion, action on the part of respondents cannot be justified and the applicant is entitled for relief.

6. For the reasons stated above, this O.A. is allowed. The orders dated 2.5.96 (Annexure-1) and 25.10.96 (Annexure-2) are quashed, and the respondents are directed to treat the transfer of the applicant from Patna Collectorate to Allahabad Collectorate without loss of seniority as done in respect of other candidates and determine his seniority at the appropriate place, in the seniority list. The order will be carried out within four months from the date of receipt of a copy of this order.

No order as to costs.


A.M.


V.C.

Asthana/