

(OPEN COURT)

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD.**

Allahabad this the 18th day of March, 2005.

Original Application No. 649 of 2004.

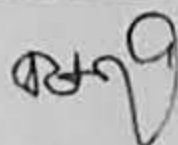
**Hon'ble Mr. Justice S.R. Singh, Vice-Chairman.
Hon'ble Mr. D.R. Tiwari, Member- A.**

1. Nagama Khatoon Siddiqui
W/o Late Mukand Ali, Presently
Working as Lower Division Clerk,
Office of the Assistant Commissioner,
Central Excise, Faizabad Division.
2. Vijay Kumar S/o Sri Ram Sanehi
3. Hari Shankar Saroj S/o Sri B. Saroj.
4. Ram Sewak S/o Sri Sita Ram.
5. Munna Lal S/o Sri Ram Kishora.
6. Prabhat Kumar Srivastava,
S/o Late Jagdish Bahadur Srivastava.
7. Raj Kumar Sonekar, S/o Late Munsii Lal.

All applicants 2 to 7 are presently working as
Lower Division Clerk, office of the Commissioner,
Central Excise & Customs, 38, M.G. Marg,
Civil Lines, Allahabad.

.....APPLICANTS

Counsel for the applicants :- Sri M.K. Sharma



V E R S U S

1. Union of India through Secretary,
M/o Finance, D/o Revenue,
Central Board of Excise and Customs,
North Block, New Delhi.
2. Chief Commissioner, Customs & Central Excise,
Tusi Ganga Minar, 19-C, Vidhan Sabha Marg,
Lucknow.
3. Commissioner, Central Excise & Customs,
117/7, Sarvodaya Nagar, Kanpur

.....RESPONDENTS

Counsel for the respondents: - Sri Saumitra Singh

O R D E R

BY HON'BLE MR. JUSTICE S.R. SINGH, VC.

The applicants are working as LDC in the office of Commissioner, Central Excise and Customs, Kanpur. They had earlier instituted O.A No. 1400/2003 for issuance of direction to the respondents to hold review DPC and promote the applicants to the cadre of UDC with effect from May 2002 against 67 vacancies which, according to them, were available at the time of DPC held in April, 2002. The said O.A was disposed of by order dated 18.11.2003 with direction to the Commissioner, Central Excise and Customs, Kanpur to decide the applicants' representation dated 15.10.2003 by a reasoned and speaking order in view of the direction issued by the Government of India dated 19.07.2001, 03.01.2002 and 10.04.2003. In compliance with the direction given by the Tribunal, the matter was taken up by the Commissioner, Central Excise and Customs, Kanpur

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and by impugned order dated 27.02.2004
(Annexure-1) the representation of the applicants
has been decided.

2. The case of the applicants is that DPC held in April 2002 failed to draw a ²panel in respect of all the vacancies existing as on 31.12.2002. The applicants, it is submitted by the learned counsel for the applicant, are entitled to be considered for promotion from the post of LDC to the post of UDC in accordance with the letter dated 10.04.2003 issued by the Government of India, D/o Revenue. In the impugned order, however, it has been held that DPC held in April, 2002 considered all the 83 vacancies available before it and made appropriate panel of 83 LDCs for promotion to the post of UDC on regular basis. However, it is further stated in the impugned order that while issuing the promotion orders, the concerned administrative unit of the Commissionerate issued orders for promoting 58 LDCs to the grade of UDC on regular basis while 25 LDCs were granted only adhoc promotion to the grade of UDC which was inconsistent with the recommendation and finding recorded by the DPC held in April, 2002. Necessary orders were issued subsequently giving regular promotion to remaining 25 LDCs who too were recommended for the post of UDC on regular basis. It is further stated in the order that the clarifications have been sought from the concerned

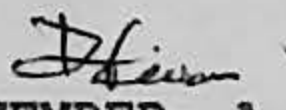
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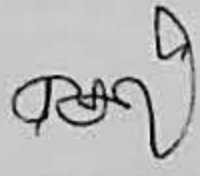
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Ministry in respect of the ambit and scope of letter dated 10.04.2003 and for that purpose reference has already been made to the Ministry and the decision of the Ministry is awaited. Since the applicants' claim is based on the letter dated 10.04.2003, it would be just and proper to² wait the decision of the Ministry. However, having regard to the delay² ~~has~~ already taken place in the matter particularly keeping in view the fact that the Chief Commissioner, Central Excise, Lucknow took² up the matter with the Ministry by making reference² away back on 07.02.2004, we are persuaded to issue a direction to respondent No. 1 to take appropriate decision in the matter and issue such order as may deem fit in the circumstances of the case within a period of 4 months from the date of communication of this order. The respondent No. 3 shall thereafter² ~~to~~ take appropriate decision in regard to applicants' claim in accordance with law within period of two months from the date of issuance of clarification.

3. The O.A is disposed of accordingly with no order as to costs.


MEMBER- A.


VICE-CHAIRMAN.

/ANAND/