

**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**AHMEDABAD BENCH**

**O.A. NO.** 494 of 1992.  
XXXXXX

**DATE OF DECISION** 29th July, 1994

Shri P.M.Pajwani **Petitioner**

Shri R.S.Gajjar **Advocate for the Petitioner (s)**

**Versus**

Union of India and ors. **Respondent**

Shri Akil Kureshi **Advocate for the Respondent (s)**

**CORAM**

The Hon'ble Mr. K.Ramamoorthy : Member (A)

The Hon'ble ~~Mr.~~ Dr. R.K.Saxena : Member (J)

**JUDGMENT**

1. Whether Reporters of Local papers may be allowed to see the Judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgment ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

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Shri P.M.Pajwani,  
Inspector of Central Excise,  
A.R.Bamanbore,  
Rajkot.

...Applicant.

(Advocate : Mr.R.S.Gajjar)

Versus

1. Union of India,  
(Notice to be served  
through, Secretary to the  
Government of India,  
Ministry of Finance,  
Department of Revenue,  
NEW DELHI.

2. Collector of Customs &  
Central Excise,  
H.Q. Office,  
Rajkot.

...Respondents.

(Advocate : Mr.Akil Kureshi)

JUDGMENT  
O.A.NO. 494 OF 1992.

Dated : 29th July,  
1994.

Per : Hon'ble Mr.K.Ramamoorthy : Member (A)

The petitioner has approached the Central  
Administrative Tribunal to redress the grievance regarding  
his position in the seniority list.

2. The applicant had joined as Inspector of Central  
Excise on 27.12.1974. However, he was confirmed as  
in  
Inspector only in 1985 thereby dropping down the seniority  
list. While he started at Sl.No.10 in the seniority as on  
1.1.1982, he figured at Sl.No. 898 in the seniority list on  
at  
1.1.1989 and Sl.No.862 in the seniority list on 1.1.1990.

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3. In their reply, the respondents have stated that in 1978, the Officer could not first be cleared as in the meeting held on 27/28th October, 1978, the D.P.C. did not think him fit for confirmation in the grade of Inspector alongwith his juniors and seniors. Thereafter, the matter was reviewed in 1982 and 1985 and in these two DPCs also the matter could not be considered since at the time of the meeting disciplinary cases had started against the applicant. The respondents have confirmed that while one of the proceedings for which charge-sheet was issued in 1980 was ultimately dropped, in case where charge-sheet was issued in 1984, the applicant was only awarded punishment of censure.

4. In view of the subsequent developments it is obvious that, in the proceeding of DPC held on 30.3.1982, ~~the~~ officially, there could have been nothing on record to weigh against the applicant. Even in the second DPC, by which time the second charge-sheet of 31.3.1982, had been issued, the result of that charge sheet which result in censure could not have by itself denied promotion to the applicant.

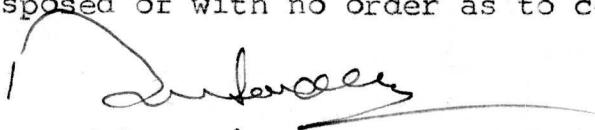
5. For this reason, therefore, confirmation of the applicant only with effect from 1.1.1985 cannot stand the test of law.

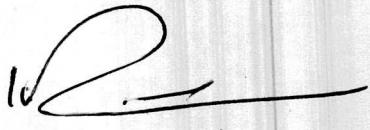
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6. It is also seen that the Respondent Authorities themselves have thereafter issued order allowing the applicant to cross Efficiency Bar w.e.f. 1.12.1978, in modification of earlier order which had allowed him to cross Efficiency Bar only from 1.6.1984. The Department itself has thus accepted the principle that on issue of award of punishment of censure to the applicant, he cannot be punished again with holding back of the crossing of the Efficiency Bar. For the very same reason the respondents themselves have also to reconsider the question of the date of confirmation.

7. In view of the above reasoning, the action taken in the DPC meeting as 29/30.3.1982, in dealing with the case of the applicant is quashed and the respondents are directed to convene the review DPC meeting of 1982 to reconsider the case of the applicant, as if there was no any departmental proceeding on that date.

7. With these directions, the matter stands disposed of with no order as to costs.

  
(Dr. R.K. Saxena)  
Member (J)

  
(K. Ramamoorthy)  
Member (A)

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Date	Office report	Order
19.1.95		<p>Neither the counsel for the applicant, nor the applicant is present. M.A. is rejected.</p> <p><i>DR</i> <i>VR</i></p> <p>(Dr.R.K.Saxena) ( V.Radhakrishnan ) Member (J) Member (A)</p> <p>npm</p>

Date	Office report	Order
19.1.95		<p>Neither the counsel for the applicant, nor the applicant is present. M.A. is rejected.</p> <p>(Dr.R.K.Saxena) ( V.Radhakrishnan ) Member (J) Member (A)</p> <p>npm</p>