

11

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 516 OF 1994.
cuttack, this the 28th day of Sept., 2001.

V. APPALA RAJU.

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APPLICANT.

VRS.

UNION OF INDIA & ORS.

....

RESPONDENTS.

FOR INSTRUCTIONS

1. Whether it be referred to the reporters or not? Yes
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not? No

(G. NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som,
SOMNATH SOM,
VICE-CHAIRMAN
28.9.2001

12

14

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C O R A M;

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAIRMAN
A N D
THE HONOURABLE MR. G. NARASIMHAM, MEMBER (JUDICIAL) .

..

SHRI V. APPALA RAJU,
Son of Late V. Gavarayya Raju,
Assistant Collector, Central
Excise and Customs, Rajaswa
Vihar, Bhubaneswar-751 004. Applicant.

By the legal practitioner : Mr. A. C. Rath, Advocate.

: Vrs:

1. Union of India represented through
the Secretary, Ministry of Finance,
Department of Revenue, Govt. of India,
New Delhi-110 001.
2. Chairman, Central Board of Excise and
Customs, Ministry of Finance, Deptt.
of Revenue, Govt. of India, North Block,
New Delhi-110 001.
3. Collector, Central Excise and Customs,
Rajaswa Vihar, Bhubaneswar-751 004.
4. Shri Budhiram Acharya,
Assistant Collector,
Central Excise & Customs,
C/o. Collector, Central Excise
and Customs, Rajaswa Vihar,
Bhubaneswar-751 004. ... Respondents.

J Com. By legal practitioner; Mr. U. B. Mohapatra, Additional Standing
Counsel (Central).

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MR. SOMNATH SOM, VICE-CHAIRMAN:

In this Original Application, u/s. 19 of the Administrative Tribunals Act, 1985, the Applicant has prayed for a direction to the Departmental Respondents to promote the Applicant to the rank of Superintendent, Group-B in Central Excise and Customs, from 30-8-1982 and to confirm him in that post on 30-8-1984 the dates from which his junior Shri Budhiram Acharya, Respondent No. 4 was promoted and confirmed along with all service and financial benefits. His second prayer is for a direction to promote him to the post of Assistant Collector, Central Excise and Customs, Group-A from 30.9.1992- the date on which Respondent No. 4 was so promoted alongwith all service and financial benefits.

2. Departmental Respondents have filed counter opposing the prayers of the applicant and the applicant has filed rejoinder. Respondents have filed counter to the rejoinder. We have perused the pleadings. Private Respondent No. 4 was issued with notice but he did not appear or file any counter. In any case, in this O.A., no relief is claimed against the private Respondent No. 4.

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3. We have heard Mr. A. C. Rath, learned Counsel for the Applicant and Shri U. B. Mohapatra, Learned Additional Standing Counsel (Central) appearing for the Departmental Respondents. We have also taken note of the written note of submission filed by the Applicant. For the purpose of considering this Original Application, it is not necessary to go into too many facts of this case. The admitted positions can be stated first.

4. Admittedly, there were earlier litigations about the fixation of seniority between the Applicant and Respondent No. 4 and admittedly and finally, the Applicant was treated as Senior to Respondent No. 4. This fact is admitted by the Respondents. Respondent No. 4 was promoted to the rank of Superintendent, Central Excise and Customs, from 30.8.1982 whereas Applicant was promoted on 22-12-1982. Respondent No. 4 was confirmed as Superintendent on 30.8.1984. Applicant was confirmed on 23-12-1984. In the context of the above, the Applicant has come up with the prayers referred to earlier.

5. It appears from the pleadings that the case of the applicant for promotion to the grade of Supdt. was considered along with his junior Shri Budhiram Acharya Respondent No. 4 in the Departmental Promotion Committee meeting held on 21-8-1982. It is also to be noted that promotion to the post of Supdt. was on the basis of selection. The DPC adjudged, Shri Budhiram Acharya, Respondent No. 4 as more

meritorious. Later on after the applicant was declared as Senior to Shri Budhiram Acharya, Res.No.4, a Review DPE meeting was held on 12-2-1993 in compliance of the order of the Tribunal in Review Application No.9/1991 (arising out of O.A. No.210/1987). In the Review DPC the position of the applicant remained unchanged vis-a-vis Respondent No.4 as the later was given a higher grading.

6. In view of the above facts, the sole point for consideration is whether because of his admitted position above Shri Budhiram Acharya, Respondent No.4 by way of seniority, the Applicant is entitled to be promoted from the date Shri Budhiram Acharya, Respondent No.4 was promoted to the post of Superintendent, Central Excise and Customs. We have noted that the post is to be filled-up by way of selection and the Departmental Promotion Committee adjudged Shri Budhiram Acharya, Respondent No.4 to be more meritorious than the Applicant and gave him a higher grading and therefore, the Applicant can not claim that he should be promoted as Superintendent, Central Excise and Customs from the date Shri Budhiram Acharya, Respondent No.4 was so promoted. It has been submitted by learned Counsel for the Applicant that the Respondents have not produced the meetings of the Departmental Promotion Committee in which both the Applicant and Respondent No.4 were considered and Shri Budhiram Acharya, Respondent No.4 was given a higher

15

grading than the Applicant. In Original Application No. 717 of 1993 disposed of in order dated 29th of August, 2001, Departmental Respondents had produced the proceedings of the different meetings of the DPC and the Review DPC and we had perused the same. In the present case, the Applicant has not prayed for production of these records and therefore, he can not make a grievance of the same. As the promotion to the Post of Superintendent is done on Selection basis and Shri Budhiram Acharya, Respondent No. 4 was given a higher grading than the Applicant, the Applicant has no claim to be promoted from the date Shri Budhiram Acharya Res. No. 4 was so promoted. We find no illegality in this. The first prayer of the Applicant is accordingly held to be without any merit and is rejected.

7. AS regards the second prayer for promotion to the rank of Assistant Collector from 30.9.1992 when Shri Budhiram Acharya, Respondent No. 4 was so promoted, we have already held that the applicant is not entitled to be promoted to the post of Superintendent from the date Shri Budhiram Acharya, Respondent No. 4 was promoted. As regards promotion to the post of Assistant Collector, Central Excise and Customs, Departmental Respondents have stated that Shri Budhiram Acharya, Respondent No. 4 was promoted to the post of Senior Superintendent, Central Excise and Customs, Gr. A and not to the post of Assistant Collector. Departmental Respondents have further stated that the Applicant was considered for promotion to the post of Assistant Collector

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and he was promoted from the date it was due to him. As the applicant has asked for promotion to the rank of Assistant Collector from the date Shri Budhiram Acharya, Respondent No. 4 was so promoted and as the Respondents have stated that Shri Budhiram Acharya, Respondent No. 4 ~~post~~ of was not promoted to the Assistant Collector but to the post of Senior Superintendent, Gr. A and as in the rank of Superintendent, the Respondent No. 4 Shri Budhiram Acharya was senior to the applicant, the Applicant can not claim promotion to the post of Assistant Collector or Sr. Supdt. Gr. A, as the case may be, from the date Shri Budhiram Acharya, Respondent No. 4 was so promoted. This prayer is also accordingly rejected.

28. In the result, therefore, the Original Application is dismissed. There shall be no order as to costs.

(G. NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
28.1.2007

KNM/CM.