

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

For admission

~~Patra~~ Bench  
12/2

For admission

~~Patra~~ Bench  
13/3

For admission

To be listed  
after part-  
heard matter

~~Patra~~ Bench  
16/3

For admission,  
part-heard  
matter.

~~Patra~~ Bench  
23/3

J. J. J.

10. 19.03.2001

As per request of Mr. A.C. Rath,  
learned counsel for the petitioner  
adjourned to 26.03.2001 as a  
part-heard matter.

Vice-Chairman  
19/3  
Member (J).

11. ORDER DATED 26.3.2001.

Heard Mr. A.C. Rath, learned counsel for the  
applicant and Mr. A.K. Bose, learned Senior Standing  
Counsel appearing for the Respondents and have also  
perused the records.

2. In this Original Application, the applicant  
has prayed for a direction to the Respondent  
no.2 the Collector of Central Excise and Customs,  
Bhubaneswar to consider regularisation of the  
applicant in the grade of Inspector of Central  
Excise and Customs, w.e.f. 16-8-1982 by which <sup>date</sup>  
he became eligible for such consideration in terms  
of the circular dated 4-2-1981 (Annexure-2) and the  
order dated 27-4-1982 (Annexure-3). He has also asked  
for consequential re-fixation of <sup>his</sup> seniority.

3. Respondents have filed counter opposing  
the prayers of applicant and applicant has filed  
rejoinder. Private Respondents were issued with  
notice but they did not appear or file counter.

4. For the purpose of considering this petition  
it is not necessary to go into too many facts of

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OA-867/94

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## NOTES OF THE REGISTRY

## ORDERS OF THE TRIBUNAL

this case. Admitted position is that the applicant joined as Upper Division Clerk under the Respondents on 16.8.1977. It is also the admitted position that according to the Rules prevalent then for filling up of the post of Ordinary Grade Inspector, 25% of the posts were required to be filled up by promoting UDCs & Stenographers with five years of service and women searchers with seven years of service. It is also the admitted position that due to nonavailability of eligible officers Department of Revenue, Govt. of India issued instruction on 4.2.1981 at Annexure-2 indicating that UDCs and Stenographers with four years of regular service and lady searchers with six years of service in the grade may be considered for adhoc promotion. In other words, for this adhoc promotion the requirement of service experience was reduced by one year for all the <sup>federal groups</sup> ~~leading groups~~. In para-2 of this circular, it has been specifically mentioned that when adhoc promotees became eligible for regular promotion in accordance with provisions of Recruitment Rules (Annexure-1) they should be considered afresh for promotion by the duly constituted DPC. It was also stated that such consideration should be done in such a manner that adhoc promotees are to be considered and promoted on regular basis before completion of adhoc period of service in the grade of Inspector. In pursuance of this order, the applicant along with some others were given adhoc promotion to the post of Inspector in order dated 27.4.1982 (Annexure-3). It is also admitted that the applicant completed five years of service as UDC on 16.8.1982. Applicant's grievance is that he was not regularised as Inspector from 16.8.1982 but some other persons

J.P.M.



NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

who were given adhoc promotion alongwith him , Girish Ch.Behera, Stenographer was regularised w.e.f. 1.12.1982. Applicant has stated that Shri Gourahari Patnaik and Shri K.C.Parida were regularised w.e.f. 9.9.1983 but the case of applicant was ignored. He filed representation but he was advised that the matter is pending before the Hon'ble High Court and the Tribunal and the applicant was advised to wait. But as no favourable order was passed, the applicant has come up in this Original application with the prayers referred to earlier.

5. Respondents, in their counter, have stated that the applicant's case for regularisation was considered by the Departmental Promotion Committee and he was regularised w.e.f. 13.5.1984 in the order at Annexure-4. Respondents have stated that Girish Ch.Behera and two others mentioned by the applicant were much senior to the applicant and they were regularised in their turn. Respondents have also stated that the applicant was given regular promotion in the year 1984 but he has come up in this Original Application only in the year 1994 after a passage of more than ten years and therefore, this Original Application is barred by limitation.

6. We have considered the pleadings of the parties and the submissions made by Mr. Rath, learned counsel for the applicant and Mr. A.K. Bose, learned Senior Standing Counsel for the Respondents carefully. Admittedly in order at Annexure-2 it was directed that persons who have been given adhoc promotion to the post of Inspector by relaxing the minimum service experience by one year should be considered for regular

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OA 567194

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## NOTES OF THE REGISTRY

## ORDERS OF THE TRIBUNAL

promotion to the rank of Inspector even before they complete adhoc period of one year. It was also indicated clearly in this circular that cases of such adhoc promotees should be considered afresh for promotion by the DPC. From this it is clear that DPC has to consider the cases of such adhoc promotees for promotion and this must be done in accordance with rules. Respondents have stated that none of the persons who are junior to the applicant were given regular promotion before the applicant. This contention has ~~not~~ been denied by applicant in his rejoinder. Admittedly, the circular at annexure-2 provides for consideration by the DPC before completion of one year of adhoc **promotion** and such consideration has to be made in accordance with the rules. Applicant can not claim that he should be given promotion earlier than his seniors and <sup>he</sup> that ineffect/has acquired a right to supersede his seniors. In view of the above as the applicant has been promoted in his turn according to his seniority in the feeder grade we hold that no injustice has been done to the applicant. Moreover, if the applicant has any grievance with regard to his regular promotion in May, 1984 he should have approached the Tribunal much earlier. Applicant has no doubt stated that he has filed representations and he was advised to wait but he has not enclosed neither copy of the representation nor the order of the Departmental authorities advising him to wait.

J. J. M.



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8

OA-567194

## NOTES OF THE REGISTRY

## ORDERS OF THE TRIBUNAL

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both counsel  
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7. In consideration of this we hold that the application is barred by limitation.

8. In view of the above, we hold that the applicant is not entitled to any of the reliefs as claimed by him in this Original Application, and the Original Application is accordingly rejected. No costs.

(G. NARASIMHAM)  
MEMBER (JUDICIAL)

Somnath Som  
(SOMNATH SOM)  
VICE-CHAIRMAN  
26.3.2001

KNM/CM.