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**CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK**

Original Application No. 260/00169 of 2015  
Cuttack, this the 8<sup>th</sup> day of April, 2015

**CORAM  
HON'BLE MR. A.K. PATNAIK, MEMBER (J)**

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Amiya Kanti Patnaik,  
aged about 59 years,  
S/o late Subal Chandra Das,  
Permanent resident of Plot No. A/48,  
Mancheswar Industrial Estate, Bhubaneswar-751010,  
At present working as Deputy Commissioner,  
Office of the Chief Commissioner,  
Central Excise, Customs and Service Tax,  
Bhubaneswar Zone, Bhubaneswar, Dist. Khurda.

...Applicant

(Advocates: M/s. J.M.Patnaik, C. Panigrahi )

**VERSUS**

Union of India Represented through

1. Revenue Secretary to Govt. of India,  
Ministry of Finance Department of Revenue,  
Central Board of Excise & Customs, North Block,  
New Delhi-110001.
2. Chairperson,  
Central Board of Excise & Customs,  
Ministry of Finance Department of Revenue,  
North Block, New Delhi-110001.
3. Member (P&V),  
Central Board of Excise & Customs,  
North Block, New Delhi-110001.
4. Director General Vigilance,  
Customs & Central Excise,  
2<sup>nd</sup> and 3<sup>rd</sup> Floor, Samrat Hotel,  
Kautilya Marg, Chanakyapuri, New Delhi.
5. Under Secretary to Govt. of India,  
Ministry of Finance, Department of Revenue,  
(Central Board of Excise & Customs),  
North Block, New Delhi.

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6. Under Secretary to Govt. of India,  
Ministry of Personnel, PG and Pensions,  
Department of Personnel and Training (AVD-II) (DoPT),  
North Block, New Delhi-110001.
7. Superintendent of Police,  
CBI, Anti Corruption Branch,  
Nizam Palace, Kolkata, West Bengal.
8. Chief Commissioner,  
Central Excise, Customs & Service Tax,  
Bhubaneswar Zone, Bhubaneswar-751007.
9. Under Secretary to Govt. of India,  
Department of Revenue,  
Central Board of Excise & Customs,  
Office of the Chief Vigilance Officer, 6<sup>th</sup> floor,  
Hudco Vishala, Building, Bhikaji Cama Place,  
R.K.Puram, New Delhi-110066.

... Respondents

(Advocate: Mr. S. Behera )

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### **ORDER (ORAL)**

#### **A.K.PATNAIK, MEMBER (JUDL.):**

Heard Mr. J.M.Patnaik, Ld. Counsel for the Applicant, and Mr. S. Behera, Ld. Sr. Central Govt. Panel Counsel appearing for the Respondents, on whom a copy of this O.A. has already been served, and perused the materials placed on record.

2. The applicant, who is 59 years of age and is presently working as Deputy Commissioner and whose date of retirement is 31.07.2015, has filed this O.A. under Section 19 of the Administrative Tribunals Act, 1985 praying for the following reliefs:

"to quash OM dated 20.01.2015 and the order dated 24<sup>th</sup> March, 2015, and consequently hold/declare that non promotion of the applicant to the post of Joint commissioner after the recommendation finding the applicant 'FIT' by the DPC held on 13.12.2013 treating the same to be a 'deemed sealed cover' is bad in law and accordingly direct the Respondents to promote him to the

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post of Joint Commissioner with all consequential service and financial benefits retrospectively when other recommended offices were promoted to the said post/grade/cadre.”

3. Mr. Patnaik, Ld. Counsel for the applicant, submitted that due to the pendency of a criminal case against the applicant his promotion has been held up. He further submitted that since some of the applicant's juniors have even been promoted in the meantime and no disciplinary proceedings are pending against him, applicant's non-promotion to the post of Joint Commissioner and keeping the recommendation of the Promotion Committee in a sealed cover are bad in law. He submitted that earlier the applicant had filed O.A. No. 856/14 before this Hon'ble Tribunal and pursuant to the order passed by this Tribunal his representation was considered and rejected by the authorities but without considering the points raised by him.

4. Taking into account the submission made by Mr. Patnaik, Ld. Counsel for the applicant, without expressing any opinion on the merit of the case, I dispose of this O.A. at this admission stage by directing Respondent No. 2 to consider and dispose of the representation dated 29.12.2014 with a well reasoned order and communicate the same to the applicant within a period of 60 days from the date of receipt of a copy of this order. Though I have not expressed any opinion on the merit of the matter, as Mr. Patnaik brought to my notice the order passed by the Hon'ble High Court of Orissa in Misc. Case No. 239/14 arising out of W.P.Crl.No. 244 of 2013 under Annexure-A/6 in which the Hon'ble High Court of Orissa has made certain observation, I direct Respondent No.2 that while considering the representation of the applicant on merit, the observation made by the Hon'ble High Court of Orissa be kept in mind.



5. With the aforesaid observation and direction, this O.A. stands disposed of. No costs.
6. On the prayer made by Mr. Patnaik, Learned Counsel appearing for the applicant, copy of this order, along with paper book, be sent to Respondent No. 2 by Speed Post for which he undertakes to file the postal requisites by 13.04.2015. Free copy of this order be made over to Mr. Behera, Ld. Sr.CGPC.

  
(A.K.PATNAIK)  
MEMBER(Judl.)

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