

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

Present : Hon'ble Mr. Justice A.K. Chatterjee, Vice-Chairman

Hon'ble Mr. M.S. Mukherjee, Administrative Member

(1) O.A. No. 1528 of 1996

Sarbani Prasad Mukherjee & Ors.

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Applicants

-vs-

1. Union of India, service through
the Secretary, Deptt. of Revenue,
Ministry of Finance, New Delhi ;

2. Central Board of Excise & Customs,
service through the Secretary, New
Delhi ;

3. The Chief Commissioner of Customs,
Customs House, Calcutta, 15/1, Strand
Road, Calcutta-1 ;

4. The Collector of Customs (Now Commi-
ssioner of Customs), Calcutta, Customs
House, 15/1, Strand Road, Calcutta-1.

Respondents

A N D

O.A. No. 1529 of 1996

Amal Kumar Chatterjee & Ors.

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Applicants

-vs-

1. Union of India, service through the
Secretary, Ministry of Finance, Deptt.
of Revenue, New Delhi ;

2. Central Board of Excise & Customs,
service through the Secretary, New Delhi ;

3. The Chief Commissioner of Customs,
Customs House, 15/1, Strand Road, Cal-1.;

4. The Collector of Customs (since redesign-
ated as Commissioner of Customs), Customs
House, Calcutta.

Respondents

Counsel for the applicants in
both the cases

: Mr. S.K. Ghosh

Counsel for the respondents in
both the cases

: Ms. Uma Sanyal

Heard on : 6.2.1997

Order on : 11.2.1997

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O R D E R

A.K. Chatterjee, VC

These two applications are taken up together for disposal by this common judgment on account of identity of parties and interest of the petitioners, all of whom could very well make a single application in view of the provisions of Rule 4(5)(a) of the CAT(Procedure) Rules.

2. The petitioners are either serving or retired Appraiser/Superintendent of Customs in the Customs House, Calcutta having been initially appointed as P.O. Gr.II on diverse dates between 1957 and 1969. With a view to reorganise the preventive cadre, a decision was taken by the Government to replace the Preventive Officer, Gr.II by Preventive Officer - Gr.I and for this purpose to abolish the post of P.O. Gr.II and to create equal number of post of P.O. Gr.I. According to the petitioners, the relevant orders made by the Government in this connection gave no indication that the inter se seniority of P.O. Gr.II would be maintained at the time of their absorption in the cadre of P.O. Gr.I. However, one Md. Habibul Haque, who had joined the service as P.O. Gr.II on 1.10.64 faced a disciplinary proceeding and a penalty of reduction of pay for one year with cumulative effect was imposed on 9.8.73. He was promoted as P.O. Gr.I on 9.8.74 and his seniority was determined with effect from this date. Aggrieved by such fixation, he filed a writ application before the Hon'ble High Court being C.R.No.5543(W) of 1977, which was disposed of on 21.11.80 upon a finding that the seniority of P.Os. Gr.II on promotion to the cadre of P.O. Gr.I would maintain their inter-se seniority and it was clarified that the inter-se seniority of said Md. Habibul Haque in the cadre of P.O. Gr.I should be considered on and from the date he joined service i.e. 1.10.64 as P.O. Gr.II. Against this decision,

the Custom Authorities took a Letters Patent Appeal being FMAT No.3515/80, which set aside the order of the Learned Trial Judge and held that fixation of seniority of the appellant with effect from 9.8.74 was in order. He took an appeal by a Special Leave to the Hon'ble Supreme Court of India registered as Civil Appeal No.3997/83, which was allowed and the order passed by the Learned Single Judge in C.R. 5543(W)/1977 was restored. It was found that the punishment imposed on the appellant Md. Habibul Haque did not have the effect of reducing his seniority and their Lordships took the view that the appellant was entitled to be adjusted in the cadre of P.O. Gr.I on the date on which his immediate junior was considered and given fitment as P.O. Gr.I. The present petitioners have made representations individually and through their Association to maintain the inter-se seniority of P.O. Gr.II on their promotion to the cadre of P.O. Gr.I, which apparently remained pending to this date. The petitioners have prayed for several reliefs but at the time of hearing, the Ld.Counsel for the petitioners has only pressed that a suitable direction may be given to the respondents to deal with and dispose of the representations.

3. We have heard the Ld.Counsel for both the parties and perused the records before us.

4. The relevant orders of the Government as also the judgment delivered by the Hon'ble Supreme Court of India and the ultimate relief given to Md. Habibul Haque indicated that he was allowed to maintain his inter se seniority as P.O. Gr.II on his absorption as P.O. Gr.I, despite a penalty imposed upon him, which was also the view of the Learned Trial Judge of the Hon'ble High Court which disposed of the writ application. In such situation, we consider it appropriate that the instant application may be disposed of with a direction as prayed for.

5. Both the applications are, therefore, disposed of with a direction upon the respondents to treat the applications together with annexures as a representation for the relief claimed therein in the light of the judgment of the Hon'ble Calcutta High Court in C.R. No. 5543(W)/77 and the order of the Hon'ble Supreme Court in Civil Appeal No.3997/1983 within four months from the date of communication of this order ^{and to} passing a speaking order in case it is decided against the petitioners. The order passed by the respondents shall be communicated to the I'd. Counsel of the petitioners as soon as such order is passed and the petitioners will be at liberty to approach this Tribunal if their grievances are not redressed.

6. However, we make no order as to costs.

M. S. Mukherjee
(M. S. Mukherjee)
Member (A)

A. K. Chatterjee
11.2.87.
(A. K. Chatterjee)
Vice-Chairman