

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

Original Application No.47/2013 with MA No.26/2013

Jodhpur this the 1st day of July, 2014

CORAM

**Hon'ble Mr. Justice Kailash Chandra Joshi, Member (Judicial),
Hon'ble Ms. Meenakshi Hooja, Member (Administrative)**

Nemi Chand s/o Shri Gena Ram, by caste Mewara, aged about 70 years r/o Ranawas Marwar, Tehsil Marwar Junction, District Pali, retired Assistant Commissioner, Department of Central Excise and Customs, Jodhpur.

.....Applicant

By Advocate: Shri Manoj Bhandari

Versus

1. Union of India through the Secretary, Ministry of Finance, Department of Revenue, North Block, Government of India, New Delhi.
2. The Chairman, Central Excise and Customs (CBEC), North Block, New Delhi.
3. The Member P&B, Central Board of Excise and Customs, New Delhi.
4. The Chief Commissioner, Central Excise and Customs (Preventive), New Delhi

.....Respondents

By Advocate : Mr. Jagat Tatia

ORDER (Oral)

Per Justice K.C. Joshi, Member (J)

The applicant has filed a Misc. Application 26/2013 for condonation of delay in filing of the present OA. After considering the

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averments made in the Misc. Application, in the interest of justice, the same is allowed.

2. The present Original Application has been filed under Section 19 of the Administrative Tribunals Act, 1985 for seeking direction to the respondents to promote the applicant to the post of Dy. Commissioner of Customs from the date his juniors were promoted w.e.f. 08.09.2001 with all consequential benefits.

3. Brief facts of the case, as stated by the applicant, are that the applicant was initially appointed as Sub-Inspector in Customs Department vide order dated 23.07.1963 and subsequently promoted to the post of Inspector in the year 1972. The applicant was further promoted to the post of Superintendent in the year 1988 and Assistant Commissioner vide order dated on 08.09.1997. The applicant was superannuated from the service on 30.06.2002. It has been averred by the applicant that a notification dated 17.09.1987 was issued as per provision under Regulation 19, whereby it has been provided that officers, both promotees and direct recruits appointed on the post of Grade-VI of the service in accordance with the provision of these rules, shall be considered for regular promotion to Grade-V of the service in running order of the seniority after completing 4 regular years in Grade-VI. In so far as the applicant is concerned, he was in Grade-VI as he was working as Assistant Commissioner which comes in Grade-VI and for promotion to the post of Dy. Commissioner, the requirement is completion of four years of service in Grade-VI. In such

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circumstances, the applicant became eligible for promotion to the post of Dy. Commissioner in the year 2001 itself, but the respondents did not consider the case of the applicant for promotion to the higher post of Dy. Commissioner. It has been further averred that when the applicant attained the age of superannuation and wanted to agitate his matter with regard to promotion, but a charge sheet has been issued to him in the year 2005 under Rule 8 of the Central Civil Service (Pension) Rules, 1972 and the inquiry is pending, but so far as claim of the applicant is concerned, he became eligible for promotion in the year 2001 and at that time there was nothing adverse against the applicant as neither any charge sheet has been issued nor any adverse entry has been recorded against him. It has been further averred that certain persons approached the Central Administrative Tribunal, Madras Bench by filing OA No.873/2007, Indian Customs and Central Excise Service Association v. UOI whereby direction was given to upgrade the applicants to the post of Dy. Commissioner and pass appropriate orders to promote the applicants as Dy. Commissioner after completing the ACRs. In pursuance to the order of CAT, Madras Bench, the respondents granted promotion vide order dated 19.11.2010 to various incumbents of the year 1997 and 1998 Batch. It has been further averred that another judgment was passed by the CAT, Madras Bench in the case of V.Srinivasan vs. UOI wherein the subsequent issuance of charge sheet has also been considered and it has been held that persons, who had become eligible prior to issuance of the charge sheet, shall be entitled to be granted promotion on completion of four years of service, because as

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on the date of completion of four years, they became due for consideration for higher promotion and on that date, there was nothing adverse against them. The applicant made a detailed representation on 18.08.2012 (Ann.A/6) and thereafter also made several other representations, but all in vain, therefore, the applicant by way of this application has prayed for the following reliefs:-

- “(i) By an appropriate order or direction, the respondents be directed to consider the case of the applicant for promotion to the higher post of Dy. Commissioner w.e.f. 08.09.2001 with all consequential benefits.
- (ii) By an appropriate order or direction, the respondents be directed to implement the judgment of the CAT, Madras Bench in the case of applicant w.e.f. 08.09.2001 as has been implemented in other cases by granting promotion to number of persons including persons junior to the applicant on completion of four years of their services as named in the original application with all consequential benefits.
- (iii) Any other appropriate order or direction which this Hon'ble Tribunal may deem fit just and proper in the facts and circumstances of the case may kindly be passed in favour of the applicant.”

4. By way of the interim reply, the respondent department has submitted that vide communication dated 14.08.2013 it has been informed that the process of making regular promotion in various grades of IRS (C & CE) Group 'A' is presently underway and the name of Shri Nemi Chand (Applicant) will be considered as per the relevant rules and also enclosed a copy of letter issued from the Ministry of Finance dated 14.08.2013 as Annexure-R/1. It has been further averred that the name of the applicant was taken in the list of regular promotion which is presently underway and same will be done in due course.


5. Heard both the parties. Counsel for the applicant contended that it has been averred in the short reply filed by the respondents that process of making regular promotion in various grades of IRS (C&CE) Group A is presently underway and the name of the applicant will be considered as per relevant rules. He further contended that this letter was issued on 14.08.2013 and about one year has since passed after issuance of this letter. Therefore, in view of the submission made by the respondent-department certain time limit be fixed for issuing the order because the applicant has been retired on superannuation in the year 2002 and juniors to him have been granted promotion in pursuance to CAT-Madras Bench judgment. He further submitted that a certain fix time limit is required to be granted to the respondents to issue orders because a very long time has been taken by the respondent department in completing the process of promotion.

6. Per contra, counsel for the respondents contended that process of making regular promotion in various grades of IRS (C &CE) Group 'A' is presently underway but it will take some time and name of the applicant will be considered as per relevant rules.

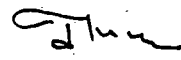
7. Looking to the facts and circumstances of the case and submissions made by counsel for the applicant and while considering the short reply filed by the respondents, we intend to dispose of this OA with the direction that respondent-department shall complete the process of promotion within six months from the date of receipt of this

order because from the year 2013 the process of promotion is still underway.

8. Accordingly, the OA is disposed of with direction that the respondent-department shall complete the process of promotion within six months from the date of receipt of this order and consider the name of the application for promotion as per law. There shall be no order as to costs.


(MEENAKSHI HOOJA)
Administrative Member

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(JUSTICE K.C.JOSHI)
Judicial Member