

**CENTRAL ADMINISTRATIVE TRIBUNAL  
JODHPUR BENCH, JODHPUR**

Original Application No.247/2014

Jodhpur this the 12<sup>th</sup> day of December, 2014

CORAM

**Hon'ble Mr. Justice Kailash Chandra Joshi, Member (Judicial)**

**Hon'ble Ms. Meenakshi Hooja, Member (Administrative)**

Dinesh Kumar Bangard S/o Shri Purshottam Das Bangard, aged about 48 years, R/o Customs House Colony, Paanch Batti, Jodhpur, presently working as Assistant Commissioner of Customs, Sub-Commissionerate, Jodhpur.

.....Applicant

By Advocate: Mr. Govind Suthar, proxy for Mr. Manoj Bhandari.

**Versus**

1. The Union of India through the Secretary, Ministry of Finance, Department of Income Tax and Revenue, Government of India (North -Block), New Delhi.
2. The Member (P&V), Central Board of Excise and Customs, Ministry of Finance, Department of Revenue, North Block, New Delhi-110 001.
3. The Customs Commissioner, New Central Revenue Building, Jaipur.

.....Respondents

By Advocate : Mr. Jagat Tatia, for respondents.

ORDER (Oral)

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

The instant application has been filed by the applicant under Section 19 of the Administrative Tribunal for the following relief(s):-

- “(i) by an appropriate order or direction, the respondents be directed to consider and grant promotion to the applicant on the post of Deputy Commissioner of Customs and Central Excise i.e. Gr.V in the pay scale of 10000-15200 with the grade pay of Rs.6600/- including arrears of salary w.e.f. the date his juniors have been granted promotion or w.e.f. 12.12.2006 with all consequential benefits.
- (ii) by an appropriate order or direction, the respondents be directed to consider and grant promotion to the applicant to the post of Joint Commissioner of Customs and Central Excise (in Gr.IV) in the pay scale of 15600-39100 with the grade pay of 7600/- w.e.f. 31<sup>st</sup> December, 2013 including arrears of salary with all consequential benefits.
- (iii) in the alternative, without prejudice to above, by an appropriate order or direction, the respondents be directed to decide the representation of the applicant and consider and grant him promotion to the due post of Deputy Commissioner and Joint Commissioner Customs and Central Excise with all consequential benefits including arrears of salary.
- (iv) 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.”

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2. The short facts of the case as averred by the applicant are that the applicant was initially appointed as Custom Appraiser on 07<sup>th</sup> June, 1987 and subsequently he was promoted as Assistant Commissioner Customs Gr.VI w.e.f. 12.12.2002 under Indian Customs and Central Excise Service Group-A Rules, 1987 vide order dated 03.12.2003. It has been averred that the seniority list of Customs Appraiser was published in the year 2004 wherein the name of the applicant was shown at Serial No.873 in the list of 1988 and the persons standing at Serial No.875, 877 were junior to the applicant namely Shri Ved Prakash Singh and Shri R.K. Sehgal, respectively. The applicant became due for promotion under the Rules of 1987 because the criteria for promotion to the post of Dy. Commissioner of Customs and Central Excise in Gr.V is by way of promotion in the order of seniority subject to rejection of the unfit. Similar appointment to Gr. IV i.e. to the post of Joint Commissioner of Custom and Central Excise is to be made on the principle of Selection of Officers having minimum of 5 years of regular service in Gr.V and this taken together to be eligible to the post of Gr.IV as Joint Commissioner of Customs and Central Excise. It has been further averred that the applicant was issued charge sheet under Rule 16 of the CCS (CCA) Rules, 1965, on 1<sup>st</sup> May, 2003 and minor penalty of reduction to lower grade in the time scale of pay by one stage for three years without cumulative effect was imposed against him vide order dated 27<sup>th</sup> June, 2012. It has been further averred that the applicant became entitled and eligible to be considered for promotion to the post of Deputy Commissioner of Custom and Central Excise on the basis of his seniority and the persons junior to him were ordered to be promoted as Deputy Commissioner of Customs and Central Excise in the year 2009 itself vide order dated 03.06.2009. The applicant became entitled and eligible to be considered for promotion as Deputy Commissioner of Customs and Central Excise in the year 2009 and there was no disciplinary proceedings pending against him nor his service record were adverse. Despite this, he was not considered and granted promotion. It

has been further averred that the applicant also became eligible to be considered and granted promotion for Gr.IV post under the Rules Of 1987 as he had completed more than 5 years of service as Assistant Commissioner. Apart from this, he became eligible to be granted promotion as Joint Commissioner for the reason that had he been granted promotion as Deputy Commissioner, he would have been considered and granted promotion by the respondents along with his juniors promoting them vide order dated 31.12.2013. It has been further averred that after quashing of the penalty order of 27<sup>th</sup> June, 2012 by the Hon'ble CAT Jaipur Bench in OA No.534/2012 vide its order dated 23<sup>rd</sup> January, 2014, when the respondent did not consider and grant him promotion as Deputy Commissioner of Customs and Central Excise and consequential promotion in Gr.IV as Joint Commissioner he made several representation to the respondents for consideration for grant of promotion. But the said representations have gone in vain as the respondents have not responded to the representations except the communication between Under Secretary to the Government and Chief Commissioner and Customs dated 30<sup>th</sup> May 2014 which summoned the ACR of the relevant period of i.e. 2002-2013 to 2005-2006 in respect of the applicant so as to grant him promotion w.e.f. 12.12.2006 to the grade of Deputy Commissioner on ad hoc basis. Hence, the applicant by way of this OA has sought the reliefs as mentioned in para No.1.


3. Heard both the parties. Counsel for the respondents contended that he could not file the reply due to certain reasons. But as this Tribunal has already granted sufficient time to them to file the reply therefore their right to file reply is closed.

4. Counsel for applicant contended that the representations filed by the applicant as at Annexure-A/7 dated 30.01.2014 & A/8 dated 13.06.2014 are still pending before the competent authority and he prayed that the respondents may be directed to decide the same within a prescribed time.

5. In view of the submissions made by the counsel for the applicant we intend to dispose of this OA with certain directions:-

- (i) The respondents are directed to decide the representations filed by the applicant as at Annexure-A/7 & A/8 within three months from the date of receipt of a copy of this order.

6. Accordingly, the OA is disposed of with no order as to costs.

  
[Meenakshi Hooja]  
Administrative Member

  
[Justice K.C. Joshi]  
Judicial Member

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