

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA

O.A. No. 1020 of 1997

Date of Order : 03-05-2005

Present : Hon'ble Mr. J.K. Kaushik, Judicial Member
Hon'ble Mr. A.K. Bhatt, Administrative Member

Ravindra Narayan Singh

-VS-

CB & SE

For the Applicant : Mr. P. Chatterjee, Counsel
Mr. B. Chatterjee, Counsel

For the Respondents: Mr. M.S. Banerjee, Counsel

ORDER

MR J.K. KAUSHIK, JM

Shri Ravindra Narayan Singh initially filed the original application for antedating the date of his promotion to the post of Assistant Collector to the original date on 3.9.1992. The applicant was initially ordered to be promoted vide order dated 3.9.1992 and posted to Patna. But for one reason or the other he did not enjoy his said promotion and subsequently he came to be promoted to the post of Assistant Collector w.e.f. 20.4.1996. As per him, he kept his claim alive for promotion from due date i.e. 3.9.1992 by making representation. Subsequently, the order dated 21.11.2000 annexed as Annexure-A/8 to the amended original application came to be passed, which reads as under :

"The President is pleased to order in pursuance of the Hon'ble Supreme Court's judgement dated 22.11.96 in Writ Petition © No.306/1988 that the Gr. B. Officers in the cadre of Supdt. Of Central Excise, Supdt. Of Customs(Prev.) & Customs Appraisers mentioned in Annexures I-III shall be deemed to have been promoted to the Junior Time Scale of IC&CES Group 'A' on regular basis w.e.f. the date of commencement of the panel year for which they have been recommended by the DPC for regular promotion of IC&CES, Gr. 'A'."

2. Now as per the applicant, the whole controversy boils down to the implementation of the aforesaid order and the consequential relief thereof.

3. We have heard the Ld. Counsel appearing for the contesting parties and we have very carefully perused the pleadings as well as records of this case.


4. Ld. Counsel for both the parties have been quite brief in their submissions. The Ld. Counsel for the applicant has, after narrating the detailed facts as noted above, invited our attention to the aforesaid order dated 21.11.2000 and has submitted that the controversy has already been resolved by the aforesaid order. The only claim of the applicant that remains is that the benefits are yet to be extended to him and perhaps because the case is pending before this bench of the Tribunal, the respondents have not considered it expedient to release the due benefits. On the other hand, the Ld. Counsel for the respondents has submitted that as far as the order which has been passed by the highest authority, the same has been passed in pursuance of the order of the Hon'ble Apex Court and admittedly, the said order has been passed to implement the order of the Hon'ble Apex Court. He has further submitted that since the order specifies that the promotion is deemed to be on regular basis to the post of Junior Time Scale of IC&CES Group 'A', as per his panel position, the applicant should be allowed only notional benefits and not actual benefits.


5. We have considered the submissions put forth on behalf of both the parties. The mere perusal of the contents of the order dated 21.11.2000 makes it evident that in pursuance of the Supreme Court's order, the said notification has been issued and the name of the applicant has been clearly included in the panel for the year 1991 wherein the applicant has been shown in the category of Supdt.(Prev.). It was also clarified that the post of Assistant Collector redesignated as Assistant Collector of Customs was brought in the category of JTS. Thus, it can safely be said that the issue does not remain resjudicate, rather the same stands settled. As far as giving the actual benefit or the benefit of proforma post is concerned this case has got peculiar facts inasmuch as the applicant on one pretext or the other did not carry out the order of promotion-cum-transfer and had not physically worked on the said post till he was promoted w.e.f. 20.4.96 and posted at Calcutta. In this view of the matter, we are persuaded by the submission of the Ld. Counsel for the respondents; rather we are in



full agreement with him that on the principle of no work no pay the actual monetary benefits cannot be given. We may however opine that as far as the prayer of the applicant is concerned there is another promotion involved in the matter i.e. for the post of Senior Time Scale and after having been deemed to be promoted from the date of the panel, the applicant would also be entitled for consideration of promotion to the said post i.e. Senior Time Scale. However, the applicant has subsequently retired from service w.e.f. 30.9.1997 and therefore, the theme of notional benefits would be applicable only upto the date of retirement. Thereafter, the applicant shall be naturally entitled to the actual pensionary benefits.

6. In view of what has been said and discussed above, this original application has merit and substance and the same stands allowed in part. The respondents are directed to extend due benefits of the notification dated 21.11.2000 (Annexure-A/8) at page 71 of the amended original application to the applicant as per his panel position and he shall be also be entitled to all consequential benefits including the revision of pension and consideration for further promotion, if otherwise found fit. ~~fit~~. However, the benefit upto the date of retirement shall be only on notional basis i.e. with no monetary effects. This order shall be complied with within a period of three months from the date of receipt of copy of this order. No costs.


(A.K. Bhatt)
Administrative Member


(J.K. Kaushik)
Judicial Member