

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

O.A.No. 43/2000

Thursday this the 13th day of January, 2000

CORAM

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN  
HON'BLE MR. J.L. NEGI, ADMINISTRATIVE MEMBER

V.Ramakrishnan,  
S/o M.K.Velu, aged 55 years  
Sepoy of Central Excise,  
Trissur Division,  
Sakthan Thampuram Nagar,  
Trissur.1.

..Applicant

(By Advocate Mr. T.A.Rajan)

V.

1. Union of India, represented by the  
Secretary, Ministry of Finance,  
Department of Revenue,  
Central Board of Excise & Customs,  
New Delhi.2.

2. The Commissioner of Central Excise  
and Customs, Cochin I Commissionerate,  
Central Revenue Buildings,  
I.S.Press Road, Kochi.18.

3. The Additional Commissioner (P&V)  
Central Excise & Customs,  
Cochin I Commissionerate,  
Central Revenue Buildings,  
Cochin.18.

...Respondents

(By Advocate Mr.Govindh K Bharathan (rep. by  
Mr. Prasanthkumar)

The application having been heard on 13.1.2000, the  
Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN

The applicant who commenced his service as a  
Sepoy in the Madras Commissionerate of Central Excise  
and Customs on 15.9.73 was transferred on request to  
Cochin Commissionrate on 1.4.76 and was given seniority.  
only with effect from that date. Consequent on a  
decision of the Patna Bench of Central Administrative

..2

Tribunal, in OA 601/93 which was upheld by the Apex Court in SLP No.6734/96 the benefit of clauses (i) and (ii) of the Ministry of Finance's O.M. 6/97/57-Ad.III (A) dated 12.2.1958 was extended to the non-gazetted staff in the Central Board of Excise and Customs who took inter-commissionerate transfer and the Board directed that the case of all such persons should be reviewed and seniority given to them accordingly. On the basis of this order, the seniority of the applicant was revised and a provisional seniority list of Sepoys as on 20.5.1980 was published, in which the applicant was assigned serial No. 156 and Shri Bharata Karanavar Nair was assigned serial number 157. Finding that Bharata Karanavar Nair had been promoted as Havildar and the applicant has not been so promoted, the applicant made a representation on 8.11.99 (A5) claiming promotion with effect from the date on which his junior was promoted. This representation has not so far been considered and disposed of. In the meanwhile, the applicant found that many persons who had placed junior to the applicant in the A4(A) Seniority list were deployed and posted in Air Cargo Complex vide order dated 28.12.99 (A6). Alleging that if the applicant had been promoted in consequence of A.4A revised seniority list he would also have been eligible for such deployment to Air Cargo Complex, the applicant has filed this application for a declaration that non-consideration of the applicant for promotion to the post of Havildar based on his revised seniority as illegal and for a declaration that he is entitled to be posted in the Air Cargo Complex with appropriate directions.

2. When the application came up for hearing, Sr.CGSC took notice on behalf of the respondents. Counsel on either side agree that the application may be

disposed of with a direction to the second respondent to consider the A5 representation of the applicant in the light of the rules and instructions on the subject and to give the applicant an appropriate order within a period to be stipulated by this Tribunal.

3. In the result, in the light of what is stated above, the application is disposed of directing the second respondent to consider the A5 representation of the applicant in the light of the rules and instructions on the subject and to give the applicant an appropriate order within a period of one month from the date of receipt of a copy of this order. There is no order as to costs.

Dated the 13th day of January, 2000

*JL Negi*  
J.L. NEGI  
ADMINISTRATIVE MEMBER

*A.V. Haridasan*  
A.V. HARIDASAN  
VICE CHAIRMAN

| Ks |

List of Annexures referred to.

Annexure.A4(A):True extract of provisional seniority list of Sepoys as on 20.05.80.

Annexure.A5:True copy of applicant's representation dated 8.11.1999 addressed to the 2nd respondent.

Annexure.A6:True copy of Order No.204/99 dated 28.12.1999 issued by the third respondent.