

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.NO.481/2002

Wednesday, this the 6th day of October, 2004.

CORAM;

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

HON'BLE MR H.P.DAS, ADMINISTRATIVE MEMBER

K.Ramachandran,
Deputy Office Superintendent Level I,
Internal Audit Section,
Central Excise & Customs,
CR Building, I.S.Press Road,
Kochi-18. - Applicant

By Advocate M/s Sukumaran & Usha

Vs

1. Union of India represented by its Secretary to Government, Ministry of Finance, New Delhi.
2. Central Board of Excise & Customs, represented by its Chairman, New Delhi.
3. Commissioner of Central Excise, Cochin Commissionerate, C.R.Building, I.S.Press Road, Kochi-18.
4. Additional Commissioner of Central Excise, Cochin Commissionerate, C.R.Building, I.S.Press Road, Cochin-18.
5. P.Manoharan, Inspector of Central Excise, AIR Cargo Complex, Thiruvananthapuram.
6. V.K.Vijayan, Inspector of Central Excise, Air Cargo Complex, Shangumugham, Trivandrum. - Respondents

By Advocate Mr C.Rajendran, SCGSC (for R.1 to 4)

The application having been heard on 6.10.2004, the Tribunal on the same day delivered the following:

O R D E R

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

The grievance of the applicant, working as Office Superintendent Level I in the Internal Audit Section of the Central Excise and Customs, is that although he is a member of the Scheduled Caste and backlog vacancies are there in the cadre of Central Excise Inspector to be filled by members of the SC, he is not being considered for appointment as Inspector in the Central Excise on the ground that he had already been promoted in the Ministerial cadre as Office Superintendent. The request of the applicant for reversion to the post of Tax Assistant and for subsequent consideration for appointment as Inspector was declined more than once. However, alleging that the applicant got a further cause of action on his seniority being revised, the applicant submitted a fresh representation seeking consideration for appointment to the post of Inspector reverting him as Tax Assistant. The representation was turned down by A-9 order. Aggrieved, the applicant has filed this application setting aside A-9 and for a direction to respondents 1 to 4 to promote the applicant as Inspector in first among the three existing vacancies of Inspector set apart for being filled up by Scheduled Caste candidates.

2. The respondents have filed a detailed reply statement explaining how the claim is barred by limitation and how the applicant who has gone on promotion to the Ministerial Wing as Office Superintendent cannot claim consideration for promotion as Inspector of Central Excise. They have also stated that in terms of A-10, as early as in the year 1988, it has been

✓

decided that reversion to the post of Tax Assistant for the purpose of consideration for promotion only as Inspector cannot be allowed. The respondents contend that the applicant is not entitled to the relief sought.

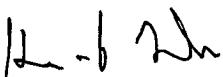
3. After making submissions for quite some time, the learned counsel of the applicant submitted that in the face of A-10, it would be appropriate if the applicant would make a representation to the competent authority to consider his case for reversion to the post of Tax Assistant and then consideration for promotion relaxing the rigour of the prohibition contained in A-10 taking into account the fact that the applicant belongs to SC and vacancies earmarked for SC are remaining unfilled for a number of years. The learned counsel submitted that the application may be disposed of permitting the applicant to make a representation to the first respondent and, directing him to consider the representation and to issue appropriate orders. Learned counsel of the respondents have no objection in disposing of this application with such a direction.

4. In the light of the submissions made by the learned counsel on either side and in the circumstances of the case, we dispose of this application without going into the merits of the case permitting the applicant to make a detailed representation to the first respondent within 2 weeks seeking relaxation of the rigour of the instructions contained in A-10 for considering the case of reversion to the post of Tax Assistant and further consideration against available

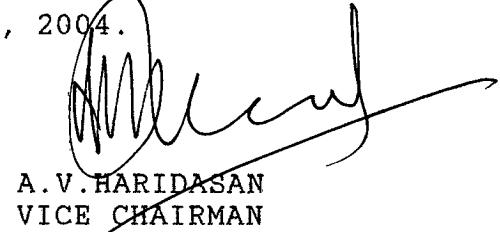
✓

vacancies of Central Excise set apart for being filled by the Scheduled Caste candidates and directing the first respondent that if such a representation is received, the same shall be considered and disposed of within three months thereof. There is no order as to costs.

Dated, the 6th October, 2004.



H.P.DAS
ADMINISTRATIVE MEMBER



A.V.HARIDASAN
VICE CHAIRMAN

trs