

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

O.A.No.492/99

Wednesday this the 1st day of September, 1999

CORAM

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN  
HON'BLE MR. G. RAMAKRISHNAN, ADMINISTRATIVE MEMBER

K. Prabhakaran  
Inspector of Central Excise,  
Central Excise Division,  
Kollam. ....Applicant

(By Advocate Mr. R.Rajasekharan Pillai (rep.))

vs.

1. The Union of India represented by the Secretary, Ministry of Finance, Department of Revenue New Delhi.
2. The Chief Commissioner of Customs and Central Excise, Bangalore.
3. The Commissioner of Central Excise and Customs, Central Revenue Building I.S.Press Road Road, Cochin.18.
4. The Deputy Commissioner (P&V) Central Revenue Building, I.S.Press Road, Cochin.18.
5. P.K.Pushpavally, Inspector of Central Excise, Central Excise Division Kollam. ....Respondents

(By Advocate Mr.M. Rajendrakumar for R.1to4)

The application having been heard on 1.9.99, the Tribunal on the same day delivered the following;

O R D E R

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

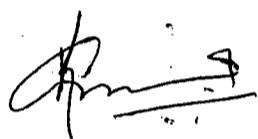
The applicant who commenced his service as a Lower Division Clerk with effect from 11.7.77 was confirmed on the post on 13.7.79. He was promoted as an Upper Division Clerk on 25.11.1983 whereas the 5th respondent who was junior to the applicant was promoted with effect from 17.2.1981. The applicant claims that he should have been promoted with effect

from the date on which his junior 5th respondent was promoted, though the applicant did not have the requisite length of five years service on that date. Claiming this benefit the applicant made a representation which was ultimately turned down by order dated 8.4.97 (A5). Aggrieved by that the applicant made a further representation which was also rejected by order dated 8.3.99 (A7). The applicant, aggrieved by these two orders filed this application praying that the impugned orders (A5 and A7) may be set aside and the respondents be directed to assign seniority to the applicant in the cadre of Upper Division Clerk/Tax Assistant/Inspectors of Central Excise above the 5th respondent.

2. We have perused the application and the annexures and have heard the learned counsel for the applicant and respondents 1 to 4. In the impugned order A5 itself it was made clear by the respondents that the Govt. of India instructions stipulating that when juniors are considered for promotion the seniors not having the required length of service should also be considered having come into effect only on 30.11.84 the applicant was not entitled to be promoted with effect from 17.2.81 when his junior the 5th respondent was promoted. In the order A7 also the same position has been reiterated. As there was no provision of law, rules or administrative instructions which provided for considering the applicant for promotion with effect from the date on which his junior was promoted in 1981 the applicant does not have any legitimate basis for his claim that he should be deemed to have been promoted as UDC with effect from 17.2.81. Further it has been made clear in the impugned orders that going by the length of

service the applicant was not senior but he became senior only on account of accelerated confirmation as a member of reserved community. In any case the 5th respondent was promoted as UDC in the year 1981, further promoted as Tax Assistant and Inspector of Income Tax etc. thereafter and several seniority lists have been issued and circulated. At this distance of time, the applicant is not entitled to seek the settled position of seniority to be unsettled. We do not find any legitimate grievance of the applicant which calls for adjudication. The application, is therefore, dismissed. No costs.

Dated the 1st day of September, 1999



G. RAMAKRISHNAN  
ADMINISTRATIVE MEMBER



A.V. HARIDASAN  
VICE CHAIRMAN

|ks

List of Annexures referred to:

Annexure.A5: True copy of the order of the 3rd respondent as per C.No.II/34/94.Estt.I dated 8.4.97

Annexure.A7: True copy of the order of the 3rd respondent as per order C.No.II/34/4/94.Estt.I dated 8.3.99 to the applicant.

...