

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

**O.A. NO. 519 OF 2011**

Thursday, this the 31<sup>st</sup> day of January, 2013

**CORAM:**

HON'BLE Mr.JUSTICE P.R.RAMAN, JUDICIAL MEMBER  
HON'BLE Mr. K.GEORGE JOSEPH, ADMINISTRATIVE MEMBER

P.V.Santhosh Kumar  
Inspector of Central Excise  
Baliapatanam Range  
Kannur

... Applicant

(By Advocate Mr.CSG Nair )

versus

1. Union of India represented by its Secretary  
Department of Revenue  
North Block, New Delhi – 110 001
2. Chairman  
Central Board of Excise  
North Block, New Delhi – 110 001
3. Chief Commissioner of Central Excise & Customs  
Central Revenue Buildings  
I.S Press Road, Cochin – 682 018
4. Commissioner of Central Excise & Customs  
Central Revenue Buildings  
I.S Press Road, Cochin – 682 018
5. Commissioner of Central Excise & Customs  
Central Revenue Buildings  
Mananchira, Calicut – 673 001
6. S.K.Chitra  
Inspector of Central Excise  
Service Tax Division, Central Excise Bhavan  
Kathikadavu, Cochin – 682 017
7. P.Santhosh Kumar  
Inspector of Central Excise  
Customs Preventive Unit  
Thellicherry – 670 101

... Respondents

(By Advocate Mr.George Joseph, ACGSC )

The application having been heard on 31.01.2013, the Tribunal  
on the same day delivered the following:

*2M*

ORDER

**HON'BLE Mr.JUSTICE P.R.RAMAN, JUDICIAL MEMBER**

The applicant was promoted as Inspector of Central Excise based on the recommendations made by the DPC held on 15.10.2003. According to him, he is entitled for notional promotion retrospectively against earlier vacancy earmarked for physically handicapped person. It is his specific case that as per Notification dated 31.05.2001, which is already communicated to the Department, he should have been considered for promotion by the earlier DPC held and he is entitled for notional promotion with effect from 18.12.2002.

2. In the reply statement filed by the respondents, in para 2 it is stated as follows:-

*"It is stated that the grievance of the petitioner is that he was not considered for promotion as Inspector in the DPOC held on 18.12.2002 on the ground that he was physically handicapped even though as per Notification No.16-25/99 NI-I dated 1.05.2001 of the ministry of Social Justice and Empowerment, he was eligible for the post. However, he was promoted as Inspector in the subsequent DPC held on 15.10.2003 but he is requesting for notional promotion with effect from 18.12.2002 and consequential seniority in the Inspector's cadre. In this connection, it is informed that Notification 16-25/99-NI – I dated 31.05.2001 was communicated by Ministry's circular No.4/2003 dated 27.02.2003 only and at the time of the DPC in December, 2002, the 4<sup>th</sup> respondent's office was not in receipt of the circular and the name of Shri P.V.Santhosh Kumar was not included in the DPC. His name was included in the next DPC after receipt of the above notification and has been promoted as Inspector in the said DPC. However, since the reservation for handicapped has been made applicable with effect from 31.05.2001, it appears that his claim for notional promotion with effect from the date the cadre of TA/UDC were promoted are to be examined by a review DPC in the light of the relevant instructions on the matter and seniority in the Inspector's cadre assigned accordingly. The applicant's claim for seniority and the first person after restructuring cannot be acceded to as there are seniors in the cadre of TAs/UDCs who are to be promoted before him. The applicant can be considered for*



*promotion along with his juniors and as assigned notional seniority above the juniors if otherwise eligible."*

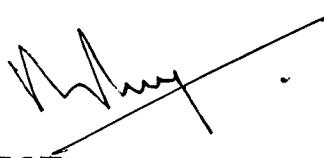
3. We have heard both sides. The facts are not in dispute. The grievance of the applicant is that he was not considered for promotion as Inspector in the DPC held on 18.12.2002 against physically handicapped vacancy and he is entitled to be considered in the first vacancy itself. The fact remains that his claim for promotion as a physically handicapped person was not considered in the DPC held on 18.12.2002. The respondents contention is that the 4<sup>th</sup> respondent is not in receipt of the circular and hence the name of the applicant was not included in the DPC. In the next DPC he has been promoted as Inspector. The reservation for physically handicapped was made applicable with effect from 31.05.2001. If so, his claim for notional promotion from a earlier date is a matter for the DPC to consider for which purpose a review DPC has to be held. Accordingly, we dispose of this OA directing to hold a review DPC and applicant's claim for promotion with retrospective effect on notional basis against physically handicapped person be considered and disposed of accordingly.

4. OA is disposed of as above. No costs.

Dated, the 31<sup>st</sup> January, 2013.



K GEORGE JOSEPH  
ADMINISTRATIVE MEMBER



JUSTICE P.R.RAMAN  
JUDICIAL MEMBER

vs