

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No.552/2002

Wednesday this the 27th day of November, 2002.

CORAM

HON'BLE MR.A.V.HARIDASAN, VICE CHAIRMAN
HON'BLE MR.T.N.T.NAYAR, ADMINISTRATIVE MEMBER

P.S.Rosamma
Tax Assistant
Customs House
Kochi.

Applicant.

(By advocate Mr.Vellayani S.Sundararaju)

Versus

1. Union of India represented by
Secretary to Government
Ministry of Finance
Department of Revenue
New Delhi.
2. The Commissioner of Customs
Customs House, Kochi.
3. The Additional Commissioner of Customs
Customs House
Kochi.

Respondents

(By advocate Ms. P.Vani, ACGSC)

The application having been heard on 27th November, 2002, the Tribunal on the same day delivered the following:

O R D E R

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

Applicant, a member of the ST community working as Tax Assistant, Customs House, Kochi, is aggrieved by Annexure A7 order dated 27.11.2001 by which her claim for appointment as Examiner has been rejected on the ground that there was no backlog vacancies and that there was a freezing on appointment on promotion to Group B and C posts. The applicant has in the application detailed how he is eligible to be promoted as Examiner against backlog vacancies and how respondents have not made any effort to carry out a review of the roster as required

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under Annexure A3 O.M. of DOPT dated 20.7.2000. The applicant has therefore sought the following reliefs through this application :-

- (1) To quash Annexure A7;
- (2) To issue necessary order or direction to respondents 2 and 3 to promote the applicant in any one of the backlog vacancies meant for STs in the category of Examiner, as there is no representation for STs either in the substantive posts or in the posts filled on adhoc basis, which is highly illegal and untenable;
- (3) To issue necessary order or direction to respondents to issue fresh seniority list of Examiners in tune with Annexure A2 guidelines and fill up the backlog vacancies meant for SCs & STs in accordance with Annexure A3;
- (4) To issue necessary order or direction to respondents to promote the applicant in any one of the 3 existing vacancies as the applicant is the 2nd seniormost candidate in the feeder category eligible and entitled to get promotion and Examiner from 1992 onwards;
- (5) To issue necessary direction or order to 2nd and 3rd respondents declaring that keeping of the 6 adhoc promotees beyond the time limit prescribed by the DOPT and reverting of the applicant and another alone is against Articles 14 and 16 of the Constitution;
- (6) To issue any other further order or direction this Hon'ble Tribunal may deem fit on the facts and circumstances of the case.

2. The respondents have filed a detailed reply statement refuting the claim of the applicant and also indicating that due to the pendency of OP No.25616/98 filed against order of the Tribunal in OA No.826/98, regular promotion to the cadre of Examiner could not be undertaken.

3. When the matter came up for hearing today, the learned counsel for the respondents stated that now OP No.25616/98 has been dismissed by the Hon'ble High Court of Kerala and there is no embargo in carrying out the review of the roster and promotion to the post of Examiner and that the applicant would be considered for promotion to the post of Examiner on roster point in accordance with rules without any further delay.

4. In the light of the above submission made by the counsel for the respondents, we dispose of this application directing the respondents to consider the applicant's name for promotion as Examiner at roster point of ST as expeditiously as possible at any rate within a period of three months from the date of receipt of a copy of this order. No costs.

Dated the 27th November, 2002.



T.N.T.NAYAR
ADMINISTRATIVE MEMBER



A.V. HARIDASAN
VICE CHAIRMAN

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APPENDIX

Applicant's Annexures:

1. A-1: True copy of seniority list issued vide Circular No.13/97 dated 28.5.97 signed by Asst.Commissioner of Customs (Estt).
2. A-2: True copy of O.M.No.36012/2/96-Estt(Res) dt.2.7.97 of D.O.P.T, Govt. of India.
3. A-3: True copy of O.M.No.36012/5/97-Estt.(Res) Vol.II of DOPT of Govt. of India dated 20.7.2000.
4. A-4: True copy of Office Order No.48/2001 dated 20.4.2001 of 3rd respondent to applicant.
5. A-5: True copy of Office Order No.133/2001 dated 19.10.2001 of 3rd respondent to applicant.
6. A-6: True copy of representation of applicant dated 5.11.2001 to 2nd respondent.
7. A-7: True copy of Memo vide No.S.45/72/2001-Estt. Cus. dated 27.11.2001 of 3rd respondent to applicant.
8. A-8: True copy of Office Memorandum issued by Central Board of Excise and Customs to all Commissioners of Customs and Central Excise, like the 2nd respondent dated 19.7.2001.
9. A-9: True copy of O.M.No.36022/4/93-Estt.(SCT) of D.O.P.T., dated 1.6.93.
10. A-10: True copy of D.O.No.28036/3/97-Estt.(D) of Ministry of Personnel, Public Grievances and Pension dated 14.12.1999.
11. A-11: True copy of Model Roster of 13 point published by D.O.P.T. dated 2.7.97.

Respondents' Annexure:

1. R-1: True copy of the list of Examiners with details of Retirement/Promotion since the publication of A1 list.

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