

CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH

O.A. No. 282 of 1997.

Monday this the 20th day of September, 1999.

CORAM:

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

HON'BLE MR. G. RAMAKRISHNAN, ADMINISTRATIVE MEMBER

C.A. Joseph,
S/o Late C.D. Alphonse,
Tax Assistant,
Office of the Assistant Commissioner
of Central Excise,
Trichur Division, residing at:
Chiramal House,
P.O. Aranattukara, Trichur District. ... Applicant

(By Advocate Shri T.C. Govindaswamy)

Vs.

1. Union of India through the
Secretary to the Government of India,
Ministry of Finance, New Delhi.
2. The Under Secretary to the
Government of India,
Department of Revenue,
Ministry of Finance,
New Delhi.
3. The Commissioner of Central Excise
and Customs, Headquarters Office,
C.R. Building, I.S. Press Road,
Cochin-682 018.
4. The Deputy Commissioner (P&W),
Office of the Commissioner of
Central Excise and Customs,
Central Revenue Building,
I.S. Press Road, Cochin-18. .. Respondents

(By Advocate Shri M.H.J. David J., ACGSC)


The application having been heard on 20th September,
1999, the Tribunal on the same day delivered the following:

O R D E R

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

The applicant presently working as a Tax Assistant,
in the office of the Assistant Commissioner of Central Excise,
Trichur, has filed this application, aggrieved by the fact

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that in the impugned order A-5 dated 3.2.97, he has not been included for consideration for selection and appointment to the post of Inspector, Central Excise despite the fact that during the previous years, he was so considered and that he had passed the physical standard and endurance test during that selection. Aggrieved by non-inclusion of his name in A-5 allert notice, the applicant made a representation which was disposed of by A7 order dated 4.2.97 wherein it has been stated that, as the post of Excise Inspector has not been identified as suitable for appointing a physically handicapped person the applicant was not eligible for consideration. Finding that the rejection of applicant's candidature is based on a clarification letter dated 19.4.96 (Annexure A8) issued by the Ministry of Finance, Department of Revenue wherein it has been clarified that the Executive posts of the Inspector of Central Excise, Preventive Officer and Examiner have not been identified as suitable for the appointment of physically handicapped persons. The applicant has filed this application impugning the orders A-5, A7 and A8 xxx for a declaration that A-5 to the extent it excludes the name of the applicant and includes that of his juniors is arbitrary, discriminatory and illegal and for a direction to the respondents to consider the applicant also for promotion to the post of Inspector of Central Excise along with his juniors referred to in A-5.

2. The respondents justify the non-inclusion of the applicant's name in Annexure A5 on the ground that in accordance with the instructions contained in the letter dated 23rd July 1993 and clarification issued by the Ministry in its letter Annexure A8 the applicant who is orthopaedically handicapped is not eligible for appointment on executive post of Inspector of Central Excise.

3. We have with meticulous care considered the pleadings and the materials available on record and have heard the learned counsel Shri TC Govindaswamy for applicant and also heard the learned Standing Counsel Mr. M. J. David J for respondents.

4. In the letter dated 19th April 1996 of the Government of India, Ministry of Finance, Department of Revenue (A8), it was clarified that the post of Inspector of Central Excise, Preventive Officer and Examiner have not been identified as suitable for appointment of physically handicapped persons and therefore, physically handicapped persons should not be promoted/appointed on these posts. It has also been stated that if physically handicapped persons have been appointed/promoted to these posts corrective action has to be taken. Recruitment Rules for the post of Inspector of Central Excise permit the Board to prescribe physical standards. In the letter of the Central Board of Excise and Customs dated 13th July 1991(R3-B) also it was made clear that the above said posts have not been identified as suitable for appointment of physically handicapped persons. The Inspectors of Central Excise are uniformed officers whose duties involve prevention of offences and apprehension of offenders. The prescription of perfect health and physique as eligibility for appointment on such posts can never be termed either arbitrary, irrational or unconstitutional for any reason. As the applicant is admittedly a physically handicapped person we are of the considered view that the respondents cannot be faulted for not including the applicant in the eligibility list.

5. In the result, the application fails and the same is dismissed. No costs.

Dated the 20th September, 1999.


G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER


A.V. HARIDASAN
VICE CHAIRMAN

List of Annexures referred to in the order:

- Annexure A5 : A true copy of the letter C.No. II/3/6/97-Con.Cx. dated 3.2.97 issued by the fourth respondent.
- Annexure A7 : A true copy of the letter C.No.II/3/6/97-Con.Cx. dated 4.2.97 issued by the fourth respondent.
- Annexure A8 : A true copy of the letter F.No.A 32011/9/95-AD.III.A dated 19.4.96 issued by the second respondent.
- Annexure R-3(B): True copy of the letter F.No.12017/5/91-AD III dated 13.7.1991 of the Central Board of Excise & Customs.