CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA NOs.389/2007 & 353/2007

DATED FRIDAY THE 22ND DAY OF JUNE 2007

CORAM:HON'BLE DR.K.B.S.RAJAN, JUDICIAL MEMBER
HON'BLE DR.K.S.SUGATHAN, ADMINISTRATIVE MEMBER

Original Application No.389/2007.

Lakshmikanthan A.
Inspector of Central Excise, Airport, Calicut
residing at2E, Good Home
(ManiMahal), Apartments,
Sowripalayam, Road Puliyakulam,
Coimbatore -45. ... Applicant

By Advocate Mr.Shafik M.A.

V/s.

1 Union of India represented by
The Chief Commissioner,
Central Excise,
CR Buildings, I.S. Press Road, Cochin

2 The Commissioner of Customs & Central Excise,
Calicut Commissionerate, Mananchira, Calicut

3 The Joint Commissioner of Customs
& Central Excise,
Calicut Commissionerate, Mananchira,
Calicut ... Respondents

By Advocate Mr.P.J.Philip ACGSC

Original Application No.353/2007

Jayaraj V.
Inspector of Central Excise,
Air Customs Office, Trivandrum
residing at Sumalayam,
S.H.Mount P.O. Kottayam -6. ... Applicant

By Advocate Mr.Martin G Thottan

V/s.

1 The Chief Commissioner of Central
Excise & Customs & 2,
CR Building, IS Press Road, Kochi

2 The Commissioner of Central Excise & Customs,
Cochin Commissionerate,
CR Bldg, IS Press Road, Kochi

3 The Chairman
Central Board of Excise & Customs,
North Block, New Delhi ... Respondents

By Advocate Ms.Jisha for Mr.TPM I Khan SCGSC

The application having been heard on 22.6.2007 the Tribunal on the same day delivered the following:

(ORDER)

Hon'ble Dr.K.B.S.Rajan, Judicial Member

As the issues involved in these two OAs are one and the same, a common order is passed in these two cases.

2 The brief fact is that the applicants are working as Inspector of Central Excise and they belong to the Scheduled Caste(SC) category. Their next promotional post is Superintendent for which they are fully eligible as per Recruitment Rules. For the year 2006, a panel was prepared in which 13 SC candidates were included and no extended panel was prepared. Out of these 13 SC candidates included in the panel, five are such that they have been consistently refusing promotion for the past five years. Two of them have specifically, prior to convening of DPC submitted that they need not be considered against the SC vacancies. As

such, even before the DPC was held, two refusals were evidently available.

3 As expected by the applicants, out of 13 candidates only 8 empaneled candidates have accepted the promotion leaving thereby five vacancies unfilled. The claim of the applicant is that had the extended panel been prepared by the DPC, there was every likelihood of their names being included and in that event, they could have been accommodated in the available vacancies.

4 Respondents have contested the OA. According to them, the contingencies under which an extended panel is to be prepared have all been specified in order dated 9/4/1996 and the same are as under:-

> (i) When persons included in the panel are already on deputation or whose orders of deputation have been issued and will be proceeding on deputation shortly for more than a year, OR
>
> (ii) when persons included in the panel refused promotion on earlier occasions and are under debarment for promotions, OR
>
> (iii) when officers included in the panel are retiring within the same year, provided there is no change in the zone of consideration by the expected date of their retirement.
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> 3 It has also been decided that while giving the extended panel, the DPC should stipulate a condition against the additional names to the effect that they will be promoted only in the event of the officer(s) in regular panel not being available for promotion/appointment for the reason given by the Ministry/Department.

5 It has also been contended by the respondents that preparation of extended panel is a matter of discretion left to the DPC and

the applicants cannot claim that such an extended panel should invariably be prepared.

6 Counsel for the applicants submitted that the purpose of preparation of extended panel is to ensure that no vacancy is left unfilled on account of any refusal by any of the empaneled candidates. In the instant case when two individuals have already expressed their unwillingness, the DPC ought to have prepared an extended panel. Counsel for respondents however submitted that as stated in the counter, it cannot be presumed that there will be refusal to accept the promotion by the empaneled candidates.

7 Arguments heard and documents perused.

8 The general guidelines issued by the nodal Ministry always orient towards ensuring filling up of vacancies without much delay. Calculation of accurate number of vacancies, holding of DPC annually as far as possible etc are only with a view to ensure that no vacancy is left unfilled. Viewed from this point of view, preparation of an extended panel would always be beneficial as persons recommended for promotion and enlisted in the extended panel would be readily available in case of refusal by any empanelled candidates.

9 In view of the above, we are of the considered opinion that for the year 2006, as the applicants fall within the extended zone of consideration, their case should be considered and an extended panel should have been prepared and in case they were found suitable for promotion, they should have been adjusted against the five vacancies

available on account of refusal by the empanelled candidates. This drill has to be done atleast now, before DPC for 2007 is convened. Ordered accordingly. It is further directed that the DPC for 2007 may work out the accurate number of vacancies and proceed to hold the DPC only after the extended panel is prepared.

10 It has been informed that the DPC for 2007 is likely to be convened on or about 25/6/2007. In order to avoid complexities that may arise, the respondents are directed to postpone the DPC for 2007 and first consider preparation of extended panel for 2006 vacancies as stated above.

11 With the above direction, the OAs are disposed of. No costs.

(DR.K.S.SUGATHAN)
ADMINISTRATIVE MEMBER

(DR.K.B.S.RAJAN)
JUDICIAL MEMBER

abp