

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW ~~XXXXXXXX~~ BOMBAY BWNCH~~XXXXX~~
O.A. No.
~~XXXXXXXX~~

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STAMP NO. 564/87

DATE OF DECISION 14-9-87

Mr. K. M. Samuel PetitionerMr. S. Natarajan Advocate for the Petitioner(s)

Versus

Collector of Customs, Bombay 38 RespondentMr. J. D. Desai for Mr. M.I. Advocate for the Respondent(s)
Sethna

CORAM :

* The Hon'ble Mr. J. G. Rajadhyaksha, Member (A)

The Hon'ble Mr. M. B. Mujumdar, Member (J)

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *No*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. Whether it needs to be circulated to other Benches of the Tribunal? *No*

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH

Application Stamp No.564/87

K.M.Samuel
101, Gulshan II, Juhu Lane
Andheri West, Bombay 400-058

Applicant

V/s

1. Collector of Customs
New Custom House
Ballard Estate, Bombay 400-038
2. Deputy Collector of Customs
Personnel & Establishment Deptt.,
New Custom House, Ballard Estate,
Bombay-400-038.
3. Union of India through
Secretary, Ministry of Finance
Deptt. of Revenue and Banking
(Revenue Wing), Jeevan Deep Building
Samsed Marg, New Delhi 110-001. Respondents.

Coram : Hon'ble J.G.Rajadhyaksha, Member(A)
Hon'ble M.B.Mujumdar, Member (J)

Appearance:

1. Shri S.Natarajan, Advocate
for the applicant.
2. Shri J.D.Desai, Advocate,
(for Mr. M.I.Sethna)
Advocate for the Respondents.

Dated: 14.9.87

Oral Judgment (Per J.G.Rajadhyaksha, Member(A))

On the applicant's approach to this Tribunal on 2.9.1987 and after hearing his learned advocate, the Tribunal gave certain orders of interim nature restraining the respondents from issuing promotion orders to the posts of Superintendents of Customs till 7.9.1987 with the expectation that on 7.9.87 the Respondents would place before us relevant facts about the case.

2. On 7.9.1987, the Tribunal heard the learned advocate for the applicant Mr.Natarajan and Mr.J.D.Desai (for Mr.M.I. Sethna) the learned Counsel for the Respondents Nos. 1 to 3. The Tribunal granted leave to amend the petition by adding several respondents; admitted the application and continued the interim orders till 14.9.1987 on which date it was to hear both the parties on the question of interim relief. On an application dt. 11.9.1987 by Mr.M.I.Sethna, the learned counsel, for the respondents the matter was called today though it was not on the Board. We have heard Mr.Sethna who points out that before the Tribunal's interim orders dated 2.9.1987 could reach the respondents they had already issued promotion

orders in respect of 18 (Eighteen) persons, to be effective from the date on which they would be assuming the charge of the higher post. He, therefore, contended that the interim orders granted by the Tribunal had proved infructuous to the extent that 7 officials had already taken charge of the promotional posts, and the remaining 11 had not been allowed to take charge in deference to the Tribunal's orders. But dislocation in the administration was being caused because of this step taken by the respondents themselves on the orders of the Tribunal. Amongst other contentions, Mr. Sethna argued that the interim order being infructuous and because of administrative exigencies it would be in the interest of justice that the Tribunal vacates the interim orders, and if the Tribunal so felt, directs that the promotions already ordered or to be ordered on the basis of the impugned seniority list as recommended by the DPC may be made subject to the final outcome of the application, that is pending.

3. We have heard Mr. Natarajan, the learned advocate for the applicant whose grievance was that suddenly the applicant had become junior to several persons in the impugned seniority list and his chances of promotion were jeopardised, and it was for this reason that he sought an interim order in the main application that he had filed. His prayer therefore, was that the interim orders should not be vacated. He also suggested that Serial Numbers 1 to 11 in the promotion order might be allowed to be promoted and to assume charge of their promotional posts, but he had a dispute about Sr. Nos. 12 to 17, in that order and one person covered by a separate order. He further suggested that the matter could be entrusted to a senior officer of the respondent Department to examine and adjudicate upon in the interim period.

4. After hearing both the learned advocates we are not inclined to accept Mr. Natarajan's suggestion that there should be an adjudicator in this matter when the application is pending before the Tribunal. Secondly, we are also not inclined to grant a partial stay to the promotion order as suggested by Mr. Natarajan. The entire question of seniority and the promotions based thereon is being agitated before us and will be fully heard on merits, and if at all the applicant's rights have been adversely affected that position could be set right in due course.

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5. We therefore, hereby direct that the interim order given by us on 2.9.1987 and continued further on 7.9.87 up to the 14th September, 1987 should be immediately vacated. We also add that any promotions that have already been ordered on 2.9.1987 in pursuance of the DPC proceedings should remain subject to the final outcome of this application. If the promotion orders do not indicate for the information of the promotees that their promotions are subject to the final outcome of this application, such a clause shall be added and conveyed to them forthwith. This will apply to all 18 persons in the promotion orders, whether they have assumed charge of the promotional post, or are still waiting.

(J. G. RAJADHYAKSHA)
MEMBER(A)

(M. B. MUJUMDAR)
MEMBER(J).