

(5)

Tribunal's Order:

Dated: 3.1.1990

On 22.9.1989 we have passed the following orders:

- (1) The application is admitted.
- (2) Issue notices to the respondents to file their replies on 10th November, 1989.
- (3) As regards interim relief we direct that the respondents shall not hold the DPC for selection to the post of Principal Collector of Customs and Central Excise till the representation dated 15.7.1988 (at page 4 of the application) made by the applicant is disposed of with intimation to the applicant.
- (4) However, we clarify that the respondents may hold the DPC if they are prepared to consider the applicant as falling within the zone of consideration for selection. In that case the result of the DPC so far as the applicant is concerned will be subject to the final outcome of this application".

There is no dispute and there cannot be any dispute regarding clauses 1 and 2 of the above order. But for modifying the interim order in clauses 3 and 4 the respondents have filed Misc. Petition No.986/89 for modifying that order. In fact the main prayer in Misc. Petition No.986/89 is this - (a) The order dated 22.9.1989 be amended to give liberty to the petitioners to convene a meeting of the DPC for promotion to the grade of Principal Collector, as per rules."

2. But after hearing Mr.P.M.Pradhan learned advocate for the respondents at length and Mr.G.K.Masand learned advocate for the applicant we find that no amendment or modification of the interim order is necessary.

3. After carefully going through the interim order in clauses 3 and 4 of the order dt. 22.9.1989 we feel that these clauses are independent in themselves. In clause (3) what we have stated is that the respondents

(S)

shall not hold the DPC for selection to the post of Principal Collector of Customs and Central Excise till the representation dt. 15.7.1988 made by the applicant is disposed of with intimation to the applicant. In clause (4) we have clarified that the respondents may hold the DPC if they are prepared to consider the applicant for selection. Clause (4) will not apply if the respondents want to hold the DPC for selection to the post of Principal Collector after the representation of the applicant dt. 15.7.1988 is disposed of.

4. Along with Misc. Petition No. 986/89 the respondents have produced an order dt. 6.11.1989 passed by the Under Secretary to the Government of India, Ministry of Finance, Department of Revenue which shows that the applicant's representation dt. 15.7.1988 is not granted. In that letter reference is made to the different applications filed before four different Benches of this Tribunal and the interim orders passed by the Hyderabad and Jabalpur Benches on 7.4.1989 and 12.5.1989, respectively. The applicant's representation dt. 15.7.1988 was for amending the seniority list and in the letter dt. 6.11.1989 it is pointed out that in view of the interim orders passed by the Hyderabad and Jabalpur Bench the seniority list cannot be amended. Mr. Masand submitted that this rejection was not on merits and cannot be treated as disposal of the representation of the applicant. We cannot accept this submission.

5. Hence in our view no amendment or modification of the interim order passed in clauses 3 and 4 of the order dt. 22.9.1989 is necessary. Misc. Petition is therefore, rejected.

6. We must however, record the statement made by Mr. P.M. Pradhan, learned counsel for the respondents that the respondents would be moving the Principal Bench for transferring all these cases including the present one to one Bench.


(M.Y. PRIOLKAR)
MEMBER(A)


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