

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH
OA.NO.210/1996

Mumbai the 3rd Day of August, 2001.

CORAM:HON'BLE SMT.LAKSHMI SWAMINATHAN, VICE CHAIRMAN
HON'BLE SMT.SHANTA SHASTRY, MEMBER(A)

Shri S.M.Pawar,
Examiner,
New Customs House,
Bombay and presently
residing at 22/177
Unnat Nagar, Part-III,
S.V.Road, Goregaon(West),
Bombay - 400 062.

... Applicant

V/s.

1. Union of India,
Through the Secretary,
Department of Revenue,
Ministry of Finance,
North Block, New Delhi
Pin Code No.110 001.

2. Collector Customs
New Customs House,
Ballard Estate,
Bombay - 400 038.

... Respondents

By Advocate Shri V.G.Rege

(ORAL)(ORDER)

Per Smt.Shanta Shastry, Member(A)

None is present for applicant. Shri V.G.Rege, learned counsel for respondents. We are proceeding to dispose of the application under Rule 15 of the CAT Procedure Rules 1987 on the basis of available pleadings.

2. The applicant is aggrieved that he has been superseded by his junior Shri K.B.Singh in the matter of promotion to the post of Customs Appraiser by order dated 30/10/1995. He has prayed that he be declared entitled to be promoted to the post of Customs Appraiser prior to his junior Shri K.B.Singh's promotion.

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The applicant has further prayed to hold that the action of the respondents in placing the applicant's selection in sealed cover is illegal, bad in law and to direct the respondents to open the sealed cover and promote him retrospectively from the date when his junior was promoted. The applicant has also claimed costs.

3. The applicant belongs to scheduled caste community and was appointed as Examiner of Customs as a direct recruit on 11/10/90. The applicant is at serial no.57 in the seniority list whereas Shri K.B.Singh is below him at serial no.58. The seniority list was circulated on 25.8.95 showing the inter-se seniority as on 1/8/95. The next promotion for Customs Examiner is to the post of Customs Appraiser Group 'B'. It is a selection post and the selection is on merit cum seniority basis. The applicant's name was not erroneously considered by DPC for promotion to the post of Customs Appraiser or the DPC had kept the result of the applicant in sealed cover. According to the applicant if his name has not been considered on the basis of seniority then it is unfair and discriminatory since his junior has been considered and promoted. Further, the applicant believes that there are no adverse entries in his Confidential Reports and also he has not been issued any charge sheet.

4. The respondents submit that the applicant was duly considered by the DPC for the post of Customs Appraiser alongwith others including his junior Shri K.B.Singh. Incidentally, Shri K.B.Singh also belongs to scheduled caste community. The respondents have also taken a preliminary objection that the applicant has not made Shri K.B.Singh a party to this OA. The interest of Shri K.B.Singh are bound to be affected if a decision

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goes in favour of the applicant and therefore the application deserves to be dismissed with cost on this ground itself.

5. The learned counsel for the respondents has also produced the proceedings of the DPC held for selection to the post of Customs Appraiser which is a Group 'B' post as well as relevant ACR record of the applicant.

6. We have heard the learned counsel for the respondents and have perused the pleadings as well as the records of the DPC meeting and the ACRs of the applicant. At the outset we note that the applicant was definitely considered by DPC which met on 30/10/95. The Bench mark for this post is 'Good', the applicant was not selected having been graded 'Average' by the DPC as compared to Shri K.B.Singh who had been graded as 'Good'. The applicant's contention is that since his grading has not been up to the Bench Mark should have been communicated to him. In our view, the post of Customs Appraiser Group 'B' is a selection post and therefore what matters is comparative merit. We find that Shri K.B.Singh was graded better than the applicant and Shri K.B.Singh also belongs to scheduled caste and therefore we do not find any reason to interfere with the selection procedure.

7. In view of the fact that the applicant has not made Shri K.B.Singh, the junior, against whom he has a grievance, a party respondent, the OA deserves to be dismissed. That apart also on merits, being devoid of any merits, the OA is dismissed. No order as to costs.



(SMT.SHANTA SHASTRY)
MEMBER(A)



(SMT.LAKSHMI SWAMINATHAN)
VICE CHAIRMAN