

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

ORIGINAL APPLICATION NO: 976/96

Date of Decision: 25.4.1997

H.K.Hirani

.. Applicant

Shri G.K.Masand

.. Advocate for
Applicant

-versus-

Union of India & Ors.

.. Respondent(s)

Shri Suresh Kumar for
Shri M.I.Sethna

.. Advocate for
Respondent(s)

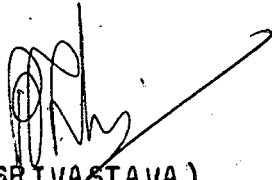
CORAM:


The Hon'ble Shri B.S.Hegde, Member (J)

The Hon'ble Shri P.P.Srivastava, Member (A)

(1) To be referred to the Reporter or not ?

(2) Whether it needs to be circulated to
other Benches of the Tribunal ?


(P.P.SRIVASTAVA)
MEMBER (A)


(B.S.HEGDE)
MEMBER (J)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

DA.NO. 976/96

Dated this the 25th day of April, 1997

CORAM: Hon'ble Shri B.S.Hegde, Member (J)
Hon'ble Shri P.P.Srivastava, Member (A)

H.K.Hirani
working as Appraiser (Appeal),
at Bombay Customs House and
residing at 136/7 Customs Qtrs.
Matunga, Five Gardens,
Bombay - 400 019.

By Advocate Shri G.K.Masand

... Applicant

V/S.

1. Union of India through the
Revenue Secretary in the
Ministry of Finance,
Department of Revenue,
North Block, New Delhi.
2. The Chairman,
Central Board of Excise
& Customs, Central
Secretariate,
Ministry of Finance,
Department of Revenue,
North Block,
New Delhi-110 001.
3. Commissioner of Customs-I,
New Customs House,
Ballard Estate,
Mumbai-400 038.

By Advocate Shri Suresh Kumar
for Shri M.I.Sethna, C.G.S.C.

... Respondents

O R D E R (ORAL)

(Per: Shri B.S.Hegde, Member (J))

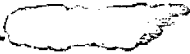
.. 2/-

Per

Heard Shri G.K.Masand, learned counsel for the applicant. Shri Suresh Kumar for Shri M.I.Sethna appears for the respondents.

2. Learned counsel for the applicant submits that the applicant was appointed as Customs Appraiser as a direct recruit in 1982. He further submits that the applicant was placed under suspension in 1987 on account of contemplated disciplinary proceedings. The suspension order was revoked and the applicant was reinstated in service in the year 1989. Counsel for the applicant submits that the Central Bureau of Investigation registered a case and the enquiry is still pending consideration in the court of law and not yet disposed of. He further contends that since 1992 onwards he has been over-looked for promotion and his juniors have been promoted. In 1992 DPC for regular promotion ^{and} his case is kept in a sealed cover. He also submits that juniors have been promoted though cases against them are pending, they were promoted but not the applicant. It is further submitted that though the departmental enquiry was started on the very same charges which have been dropped in the year 1995 stating that the charges framed against the applicant have not been proved. Despite that no action has been taken. In this connection, he draws our attention to a decision of the Tribunal in OA.No. 735/96 S.C.Verma vs. Union of India & Ors. decided on 7.4.1997 wherein in similar circumstances it is observed that there is no justification on the part of the respondents not to consider the applicant for the post of Superintending Engineer merely on the pretext of pending case against him and not on any other ground. Therefore, the Tribunal

directed the respondents to consider the applicant for the post of Superintending Engineer on adhoc basis strictly in terms of D.O.P & T. Memo dated 8/11.9.1992, etc. Therefore, he submits that the ratio laid down in that case is squarely applicable to this case. Therefore, he prays that interim relief in terms of Para IX may be granted to the applicant. He also states that within a week's time another DPC is likely to take place and if in that DPC he is over-looked, great harm will be done to the applicant. Accordingly, we direct the respondents to consider the adhoc case of the applicant for promotion in terms of D.O.P & T Memo dated 14.9.1992 and pass a speaking order within a period of two months from the date of receipt of this order. Accordingly, the OA. is disposed of with the above directions.

3. Issue Dasti. 



(P.P. SRIVASTAVA)

MEMBER (A)



(B.S. HEGDE)

MEMBER (J)