

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO.755/1996

Dated this, Thursday, the 21st Day of June, 2001.

Shri Chowdhary M. Mumbai.

Applicant.

(Applicant in Person and by Shri Suresh Kumar, Adv.)

Versus

UOI & Ors.

Respondents

(Offl. Respondents by Shri V.D.Vadhavkar for Shri M.I.Sethna, Adv.)
Pvt. Respondents by Shri Natarajan, Adv.),

CORAM

HON'BLE SHRI JUSTICE ASHOK C. AGARWAL, CHAIRMAN
HON'BLE SMT. SHANTA SHASTRY, MEMBER (A)

- (1) To be referred to the Reporter or not?
- (2) Whether it needs to be circulated to
other Benches of the Tribunal?
- (3) Library. ✓

Shanta
(Smt. Shanta Shastri)
Member (A)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

Original Application No.755/1996

Date of Decision: 21.6.2001

CORAM: HON'BLE SHRI JUSTICE ASHOK C. AGARWAL, CHAIRMAN
HON'BLE SMT. SHANTA SHASTRY, MEMBER (A)

Shri Venkateswara Chowdary,
Examiner, New Custom House,
Ballard Estate,
Mumbai 400 038.

..... Applicant

(Applicant in person as well as by Shri Suresh Kumar, Adv.)

vs.

1. Union of India
through
The Secretary
Ministry of Finance,
Department of Revenue,
North Block, New Delhi.
2. Commissioner of Customs
New Custom House, Ballard
Estate, Mumbai 400 038.
3. Shri V.C. Jagwani, Examiner
4. Smt. 11 Padmini Gopalkrishnan
5. Shri S.S. Ashani,
6. Kum. I.B. Khandelwal (P.H.)
7. Smt. R. Alex
8. Shri L. Munaswamy (P.H.)
9. Shri Ravindra N. Ranse (P.H.)
10. Smt. Aruna R. Khanvilkar
11. Smt. Rajani P. Britto
12. Shri Narayan K. Paranjpe
13. Shri Govind R. Korgaonkar
14. Shri H.M. Jagiasi
15. Smt. T.M. Tampi
16. Smt.V.K. Jayalaxmi.
17. Smt. S.S.Pillai
18. Smt. B.M. Kamat
19. Kum. Teresa Taiknath
20. Smt. L.S.Desai
21. Smt. S.S. Das
22. Kum. N.D. Digaskar
23. Shri V.B.Gore
24. Smt.D.J. Sawant
25. Smt. S.R. Parkar
26. Shri B.A. Vhavale, S.C.
27. Shri N.H. Shede, S.T.

.....2/-

C/o Commissioner of Customs,
New Custom House, Ballard
Estate, Mumbai 400038.

... Respondents
(Official Respondents by Shri V.D.Vadhavkar, for Shri M.I.
Sethna, Adv. Private Respondents by Shri Natarajan, Advocate)

O R D E R (ORAL)

[Per: Smt. Shanta Shastry, Member (A)]:

The Applicant who is a Direct Recruit Examiner in the Customs Organisation has assailed the seniority list published on 25.8.1995 and has prayed to quash and set aside the same. In addition he has sought the following reliefs:

Para 8 (b) This Hon'ble Tribunal will be please to direct the Respondents to fix the seniority of the Applicant in regard to the vacancies which have arisen from 1979 to and inclusive of 2.7.1986 on the basis of the vacancies available for promotees in each year or fraction of the year and excess promotions have to be pushed down for consideration in the late year.

(c) This Hon'ble Tribunal will be plesed to direct the Respondents to prepare the seniority list in regard to the vacancies which had arisen from 3.7.1986 on the basis of para 2.4.4 of OM dated 3.7.1986.

(d) This Hon'ble Tribunal will be pleased to direct the Respondents to place the Applicant in

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appropriate list after revising the seniority list as stated hereinabove and confer on him all the benefits which would have been available to him on the basis of the seniority fixed in accordance with the guidelines dated 3.7.1986.

(e) This Hon'ble Tribunal will be pleased to direct the Respondents to promote the Applicant to the post of Appraiser on the basis of the seniority list with all consequential benefits such as pay and seniority.

(f) This Hon'ble Tribunal will be pleased to restrain the Respondents by an injunction of this Hon'ble Tribunal not to operate the seniority list dated 25.8.1995 as the same is not prepared in accordance with with guidelines dated 3.7.1986.

(g) This Hon'ble Tribunal will be pleased to pass such other and further orders as deemed fit in the nature and circumstances of this case.

(h) Cost of the Application be awarded to the Applicant."

2. According to the Applicant, the Respondents have not followed the guidelines laid down in the O.M. dated 3rd July,

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1986 of the Department of Personnel and Training, regarding fixing *interse* seniority of direct recruits and promotees. According to the Recruitment Rules, the Direct Recruitment and promotions are to be made in the ratio of 2:1 i.e. 66 and 2/3% of vacancies are to be filled by direct recruitment and 33 and 1/3% vacancies are to be filled through promotees. According to the Applicant the Respondents did not report the correct number of vacancies for direct recruitment to the Staff Selection Commission and promotions were made, in excess of the quota prescribed during the period 1982 to 1991. About 49 excess promotions were made against the direct recruitment quota. With this, the seniority list has been disturbed. This has affected the prospects of the direct recruits.

3. The Applicant was appointed as examiner on 18.3.1992.

4. It is seen from the reply of the Responders that Respondents had to issue the impugned seniority list of 25.8.1995 in continuation of the seniority list issued on 29.3.1995 after correcting the bonafide mistakes of seniority lists issued on 31.7.1992 which was prepared on the basis of a judgement delivered by this Tribunal in the case of one Shri V.C. Jagwani & Ors. in O.A.390/87. In this judgement, the Tribunal, had allowed the O.A. to the extent that the adhoc promotee need not have appeared for a second selection. After this seniority list was published the Applicant gave representations on 27.1.1996, 65.2.1996 and 10.2.1996. He had also challenged the seniority vide letter dated 29.4.1996. This same seniority of Examiners as

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on 1.1.1992 was also challenged by another Appraiser Shri Ravindrakumar in O.A.No.371/95. The Respondents disposed of the representation of the Applicant on the ground that the O.A. 371/95 was pending and therefore, the decision may be awaited.

5. Shri Natarajan, learned Counsel for the private Respondents put forth that the seniority list drawn up by the Respondents is quite in order and is keeping in line with the guidelines in the O.M. dated 3.7.1986.


6. Shri Vadhavkar for Shri M.I. Sethna for the Official Respondents also reiterated that the Respondents had drawn up the seniority lists strictly according to the guidelines in the O.M. dated 3.7.1986. There is no deviation and it is not correct to say that the Respondents had not reported correct number of vacancies to the Staff Selection Commission. Upto 1990-91 a total of 103 direct recruits were sponsored by Staff Selection Commission or were appointed by the Department. Promotees were also given placements keeping in view the judgement delivered by the Tribunal in O.A.No.390/87. The adhoc promotees were later on regularised vide orders dated 31.7.1992, 18.12.1992 and 9.2.1992. The position was put up in the RPs filed in the judgement in O.A.No.390/87. According to the learned Counsel for the private Respondents, the Tribunal had expressed satisfaction over this.

7. The Applicant in person as well as through his Counsel however, made further submissions and referred to his rejoinder wherein he has brought out a comparative statement and argued that the seniority list was not according to the guidelines in O.M. dated 3.7.1986. He could not produce any substantial

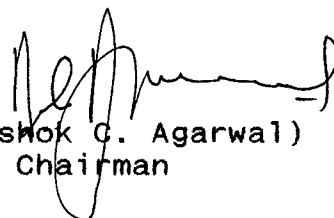
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evidence except for certain minor discrepancies to support his say that seniority list is not in accordance with the O.M. dated 3.7.1986.

8. We have heard the Applicant in person as well as his learned Counsel, learned Counsel for the Private Respondents and the Counsel for the Official Respondents and have perused the seniority lists. A glance at the list shows that it has been prepared taking into account the rota quota principle and also the guidelines given in the O.M. dated 3.7.1986. For example, it is found that Sr.No.65 to 81 in the impugned seniority list are occupied by the promotees whereas Sr.Nos.169 to 181 are occupied by direct recruits. In our view, the seniority list appears to be in order and cannot be faulted. We, therefore, do not see any reason to interfere with the impugned seniority list of 25.8.1995. Accordingly, the O.A. is dismissed. We do not order any costs.



(Smt. Shanta Shastri)
Member (A)



(Ashok C. Agarwal)
Chairman

sj*