

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH.

ORIGINAL APPLICATION NO.: 177 of 1999.

Dated this Friday, the 5th day of May, 2000.

R. R. Gandhi, Applicant.

Shri Suresh Kumar, Advocate for the applicant.

VERSUS

Union of India & Others, Respondents.

Shri M. I. Sethna alongwith Advocate for the
Shri V. D. Vadhavkar, Respondents.

CORAM : Hon'ble Shri Justice R. G. Vaidyanatha,
Vice-Chairman.

Hon'ble Shri B. N. Bahadur, Member (A).

(i) To be referred to the Reporter or not ?
(ii) Whether it needs to be circulated to other Benches
of the Tribunal ?
(iii) Library.

R. G. Vaidyanatha
(R. G. VAIDYANATHA)
VICE-CHAIRMAN.

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Shri R. R. Gandhi,
L. D. C.,
New Customs House,
Mumbai.
Residing at -
Gandhi Vihar, 8 Sakharam
Keer Road, Mahim,
Mumbai - 400 016.

... *Applicant.*

(By Advocate Shri Suresh Kumar)

VERSUS

1. Union of India through
The Secretary,
Ministry of Finance,
Department of Revenue,
North Block, New Delhi. .
2. Principal Commissioner of
Customs, New Custom House,
Ballard Pier, Mumbai.
3. Dy. Commissioner of Custom,
Personnel & Vigilance Deptt.,
New Custom House, Ballard Pier,
Mumbai - 400 038. ... *Respondents.*

(By Advocate Shri M. I. Sethna alongwith
Shri V. D. Vadhavkar).

OPEN COURT ORDER

PER : Shri R. G. Vaidyanatha, Vice-Chairman.

This is an application where the applicant is challenging his supersession since he is not promoted to the post of U.D.C. Respondents have filed reply opposing the admission. Since the point involved is a short point, we have heard both counsel regarding admission and final hearing.

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2. The applicant's grievance is, that though his turn has come up for promotion, he has not been promoted and his juniors have been promoted. It is an admitted case that C.B.I. has filed a charge-sheet against the applicant and the case is pending in the Session Court. In view of this, the applicant's case for promotion cannot be considered and the findings of the D.P.C. have been kept in the sealed cover as per the 1992 Sealed Cover Procedure circular dated 14.10.1992. But the applicant's counsel submits that even if sealed cover procedure is adopted under the 1992 circular, vide para 5 of the same circular, applicant's case should be considered for adhoc promotion after the expiry of two years from the date of his junior's promotion and then follow the process of reviewing adhoc promotion periodically every six months. In our view, the claim of the applicant appears to be justified. Even though the sealed cover procedure is adopted, the competent authority has a duty to review the case for adhoc promotion within the parameters mentioned in para 5 of the 1992 Sealed Cover Procedure circular dated 14.09.1992. Therefore, the O.A. can be disposed of by giving suitable direction to the competent authority.

3. In the result, the application is disposed of at the admission stage with a direction to the competent authority to consider the case of the applicant for adhoc promotion in terms of the 1992 Sealed Cover Procedure circular dated 14.10.1992. This review of the applicant's case for promotion should be done periodically once in six months, as mentioned in para 5 of the



circular. The first review in pursuance of this order should be done by the competent authority within two months from the date of receipt of a copy of this order. All contentions on merits are left open. No order as to costs.

B. Bahadur

(B. N. BAHADUR)
MEMBER (A).

R. G. Vaidyanatha

(R.G. VAIDYANATHA)
VICE-CHAIRMAN.

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