

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

ORIGINAL APPLICATION NO.: 829 of 1999.

Dated this Thursday, the 13th day of February, 2003.

CORAM : Hon'ble Shri A. S. Sanghvi, Member (J).
Hon'ble Shri G. C. Srivastava, Member (A).

D. H. Hodekar,
Officiating as Skipper Mate,
"CPC Ambika", under
Asst. Commissioner Customs,
Ratnagiri. ... Applicant.

(By Advocate Shri G.S. Walia)

VERSUS

1. Union of India through
The Commissioner of Customs,
PMC Commercial Building,
Hira Baug,
Dilip Road,
Pune 411 002.
2. Assistant Commissioner of
Customs,
Ratnagiri - 415 612. ... Respondents.

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

O R D E R (ORAL)

PER : Shri A. S. Sanghvi, Member (J).

Heard Shri G.S. Walia, Learned Counsel for the Applicant
and Shri V. D. Vadhavkar for Shri M. I. Sethna, Learned Counsel
for the Respondents.

2. The Applicant has approached this Tribunal seeking the following reliefs :

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- "(a) This Hon'ble Tribunal will be pleased to hold and declare that the Applicant is entitled to be considered for promotion to the post of Skipper Mate.
- (b) This Hon'ble Tribunal will be pleased to order and direct the Respondents to consider the Applicant for promotion to the post of Skipper Mate and promote him to the post of Skipper Mate with all consequential benefits such as pay, increment, seniority, arrears of payment of backwages, etc.
- (c) Cost of this Original Application be provided for.
- (d) Any other or further order as to this Hon'ble Tribunal may deem fit and necessary in the circumstance of the case may be passed."

3. The main grievance of the Applicant is that even though he was eligible, having completed five years of service, he was not considered for further promotion by the D.P.C.

4. At the time of arguments, Shri V. D. Vadhavkar for Shri M. I. Sethna, Learned Counsel for Respondents, has drawn our attention to reply para 2(f) wherein it is clearly stated that as the Applicant had completed five years of qualifying service in June 1998, his case will be taken up for consideration by the D.P.C. which is likely to be held soon. Mr. Vadhavkar further states that he had enquired from the Department about the present situation so far the case of the Applicant was concerned. According to him, he has been intimated by the Department that in the D.P.C. which was held on 27.12.1999, Shri D. H. Hodekar, i.e. the Applicant, was in the consideration zone. However, he was not selected for promotion as he was too junior and Shri D. H. Tandel, being senior to the Applicant was promoted. He has made available the letter of the A.O., Customs (H), Pune, and we have

perused the same. Mr. Vadhavkar also points out that no junior of the Applicant has been promoted and one person above him is still in the line for promotion. According to him, as such the Applicant cannot make any grievance about his not being considered for promotion as his senior is still awaiting the promotion.

5. We find from the statement made by Shri Vadhavkar at the bar, that the Applicant was considered for further promotion but since there was no sufficient vacancy available, he could not be promoted to the post of Skipper Mate and there is still a senior officer above him awaiting the promotion. Under the circumstances, we find that the grievance of the Applicant of his non-promotion cannot be justified. Shri G. S. Walia, Learned Counsel for the Applicant, however submits that he does not have any instructions from the Applicant and he is not aware that none of the juniors of the Applicant is promoted. However, we rely on the statement made by Shri Vadhavkar and the instructions received from the Department. We, therefore, hold at this juncture that Applicant cannot be said to have any grievance and hence this O.A. does not survive. However, if any grievance survives it will be open to the Applicant to approach this Tribunal again.

6. With the above observations, we dispose of this O.A. as infructuous. No order as to costs.

G. C. Srivastava
(G. C. SRIVASTAVA)
MEMBER (A).
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A. S. Sanghvi
(A. S. SANGHVI)
MEMBER (J).