CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Dated this Wednesday the 11th day of June, 2003

Coram: Hon'ble Mr.V.K.Majotra - Member (A)
Hon'ble Mr.Shankar Raju - Member(J)

OAs 418/2000, 420/2000, 479/2000 & 484/2000

1. Ladu Sahadev Sawant - Applicant in OA 418/00
2. Balachandra Nanthuram Patil - Applicant in OA 420/00
3. Vazhimangalath Joseph George - Applicant in OA 479/00
4. Joseph Baptista D'Mello - Applicant in OA 484/00
(By Advocate Shri S.S.Karkera)

Versus

1. Union of India
through the Chief Commissioner,
O/o Central Excise Commissionerate,
Mumbai -1,
New Central Excise Building,
Opp.Churchgate Station,
Mumbai -20.

2. The Commissioner,
O/o Commissioner of Central Excise,
Mumbai -I,
Central Excise Building,
Maharishi Karve Road,
Opp.Churchgate Station,
Mumbai - 20.

3. The Commissioner,
O/o Commissioner,
Central Excise Mumbai -V,
Bandra Kurla Complex,
Bandra (East), Mumbai
400 051.
(By Advocate Shri V.S.Masurkar) - Respondents

O R D E R

By Hon'ble Mr.Shankar Raju, Member (J) -

As the facts in issue and law involved in the aforesaid OAs is identical, the same are being disposed of by this common order.

2. Initially the Applicants were working as Inspectors in Central Excise. They have assailed draft seniority list circulated vide Memo dated 18.12.1997. A representation putting

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their objection as directed in the memo has been preferred by all the Applicants. As no response had come forth, present OAs have been filed.

3. During the pendency of the aforesaid OAs, another seniority list dated 29.6.2000, which is draft seniority list of Inspectors of Mumbai - I to VII/Pune/I/II/Pune Customs/Aurangabad /Goa/Commissionerate as on 1.1.2000 was circulated and therein objections have been sought in the form of representation.

4. Applicants admittedly have not filed any objection through their representations. The learned counsel for the Applicant states that on completion of all the requisite eligibility criteria as laid down under the rules for the post of Inspectors and in the light of relaxation accorded by the respondents, vide their letter dated 4.2.1981, relaxing the minimum services of UDC envisaged under the rules, there being promoted on ad-hoc basis as such in view of continuous officiation, the seniority is to be assigned to them from the date of their continuous officiation or in the alternative from the date of assigning of eligibility five years regular service as UDC. However,assigning of seniority from the date of confirmation i.e. w.e.f. 1988 is unsustainable in law and is against the law laid down by the Apex Court in several pronouncements. On the other hand the Respondents' Counsel Shri V.S.Masurkar contended that although the seniority list is draft but the cases had been decided by this Court in pursuance thereof

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and keeping in view of the directions therein, reasoned orders are passed on objections put forth by the Applicants therein as to the assignment of seniority and their placement thereof. While referring to the decision of the Bench in OA.593 of 2002 (S.D.Kulkarni Vs. Union of India & others) decided on 28.3.2003, where similarly circumstanced Inspectors assailed refixation of seniority approached this Court and their OA was dismissed as barred by limitation as they have attempted to unsettle the settled position in the matter of seniority.

5. We have carefully considered the rival contentions of parties and perused the material on record. In view of the perusal of the decision above, the same is distinguishable as therein the seniority list issued in 1997 has not been assailed by way of representation whereas in the present case though representations were preferred, but the same were not disposed of.

6. As held by the Apex Court in the case of C.N.Reddy Vs. Government of Uttar Pradesh, 1998 (3) SCC 24-0, final seniority list cannot be issued without a tentative list and without considering the objections. We find from the record that both in the year 1997 as well as 2000, what has been published by the Respondents is a draft seniority list and no final seniority list has been issued after consideration of individual representations of the Inspectors regarding objection put forth for assigning of seniority to them.

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7. In the year 2000 as well, the draft seniority list was issued and no final seniority list has been issued till date.

8. Having regard to the aforesaid and the decision of the Apex Court as the Applicants have not represented to the draft seniority list published in the year 2000 and incorporated through an amendment considering the present OA ends of justice will be met, if the present OA is disposed of with a direction to the Respondent to treat these OAs as statutory representations of the Applicants regarding objections to their placement in the seniority list as well as assigning of seniority and dispose of their claim through a detailed and speaking order within a period of six months from the date of receipt of a copy of this order. However, it is made clear that the issues raised by the Respondents in these OAs shall remain open.

9. With the aforesaid directions OAs 418/2000, 420/2000, 479/2000 and 484/2000 are disposed of. Copies of this order be placed in the individual files. No costs.

(Shankar Raju)
Member (J)

(V.K.Majotra)
Member (A)

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