

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Dated this Friday the 15th day of March, 2002

Coram: Hon'ble Mr.B.N.Bahadur - Member (A)
Hon'ble Mr.S.L.Jain - Member (J)

O.A.689 of 2001

B.R.Dubey,
Draftsman Grade - II,
R/o 1B/M.H.B. Colony,
Near Ashokvan, Borivali,
Mumbai.
(Applicant in person)

- Applicant

Versus

1. Union of India
through the Commissioner Preventive
Operation, Customs & Central Excise,
Lok Nayak Bhavan, 4th Floor,
Khan Market, New Delhi.
2. Commissioner of Customs,
New Custom House,
Bellard Pier, Mumbai.
3. Additional Commissioner of Customs,
P & V Department,
New Customs House,
Bellard Pier, Mumbai
4. Additional Director Marine,
Customs Marine Headquarters,
16, Arthur Bunder Road,
Hotel Waldorf, 2nd Floor,
Colaba, Mumbai.
(By Advocate Shri V.D.Vadhavkar for
Shri M.I.Sethna for the respondents) - Respondents

ORAL ORDER

By Hon'ble Mr.S.L.Jain, Member (J) -

This is an application under Section 19 of the
Administrative Tribunals Act, 1985 seeking the reliefs as under:-

(a) This Hon'ble Tribunal be pleased to call for the records
and after examining legally thereof be pleased to hold and
declare that the act of the respondents is illegal and bad in
law.

S/LJ

(b) This Hon'ble Tribunal be pleased to direct the respondents to grant all benefits under the ACP Scheme O.M.No.35034/1/97-Estt.)D) dated 9.8.1999 with all consequential benefits.

(c) This Hon'ble Tribunal be pleased to direct the respondents to give the First Financial Upgradation from Rs.5000-150-8000 (S-9) to Rs.5500-175-9000 (S-10) w.e.f 9.8.1999 and the Second Financial Upgradation from Rs.5500-175-9000 (S-10) to Rs.6500-200-10,500 (S-12) w.e.f. 5.4.2000.

(d) This Hon'ble Tribunal be pleased to direct the respondents to pay interest on arrears at the rate of 10% from the date it becomes due.

(e) This Hon'ble Tribunal be pleased to award costs.

(f) This Hon'ble Tribunal be pleased to pass any other order or any further order as may be deemed fit and proper in the facts and circumstances of the case.

2. The applicant was appointed on 5.4.1976 as Draftsman. Thereafter in view of Order No.--18/96/023/Vol.II/468/548 dated 21.8.1997 (Annexure-A-VII), in pursuance of Ministry's order No.MF(DE) F.No.13 (1) IC/91 dated 19.10.1994 and MR. (DR) F.No.21/49/94-Coord. dated 23.11.94 regarding revision of pay scales of Draftsman on the basis of the Award of Board of Arbitration, he had completed minimum priod of service for placement from the post carrying the pay scale of Rs.330-560 (Pre-Revised) to Rs.425-700/- (Pre-revised) on 4th April, 1981. The pay scale is revised notionally with effect from 13.6.1982

but the actual benefit being allowed with effect from 1.11.1983. The applicant was placed in the revised scale. Thereafter on account of the fact that the Assured Career Progression (in short ACP) Scheme coming in operation, the applicant vide order dated 16.3.2001 was placed in the scale of Rs.5000-150-8000/-.

3. The applicant claims that as he was appointed as Draftsman on 5.4.1976, after completion of 12 years i.e. 5.4.1988 thereafter on completion of 24 years i.e. to say 5.4.2002, he is entitled to the benefit of the said Scheme.

4. The respondents dispute the said averment of the applicant and state that the placement of the applicant vide order dated 21.8.1997 referred to above, is in respect of one promotion and, therefore, he is entitled only to be considered for one more promotion in view of the ACP Scheme. The applicant, during the course of arguments, based on the records, claimed for the benefits accruing from the ACP Scheme in view of the letter dated 18.7.2001 (Exhibit-II), he has already sent his representation through proper channel to the Chairman, Central Board of Excise & Customs and to the Commissioner Preventive Operations, Customs & Central Excise, New Delhi. The said representation is still pending disposal.

5. In view of the fact that in case of doubt matter should be referred to the Department of Personnel and Training Establishment (B) giving all relevant details. In the present case the doubt is whether placing of the applicant in a revised

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.....4/-

scale in view of the order dated 21.8.1997 amounts to promotions or not. We, therefore direct the applicant to place before the respondents all details in a representation for decision in accordance with law. If the respondents allow the benefits in view of the ACP Scheme as claimed by the applicant, the respondents need not refer the matter to Department of Personnel and Training Establishment (B) Section, but the respondents should take a decision by passing a speaking order within two months from the date of the receipt of the representation of the applicant and communicate the same to the applicant. In case the matter has to be referred to the Department of Personnel & Training Establishment (B) Section, this information may also be communicated to the applicant. The decision so arrived at by the Department of Personnel & Training may be communicated to the applicant within an additional one month from the date of receipt of the representation of the applicant.

6. With the directions made in the above Para 5, the OA is disposed of. No costs.

PSO
(S.L.Jain)
Member (A)

B.N.Bahadur
(B.N.Bahadur),
Member (A)

mb

dt 15/3/92
Order / Judgement despatched
to : Applicant / Respondent (s)
on : 16/4/92

M

78/02

for orders
fixed for
hearing on
6/9/02

23/8/02

6/9/02
By notification
the matter is
adjed to 20/9/02.

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22) OA 689/2001

Dt.: 20-9-2002.

Applicant is present in
person. Mr. V.D. Vadharkar, Counsel
for respondents.

Counsel for respondents
states that he has filed ref for
extension of time, the said ref
be placed on record.

List the case on 11-10-2002
for orders on 8/10.

Resd -

(S.L. Jain)
M(I)

Resd
(B.N. Bahadur)
M(I)

Resd
23/9/02

A.

M.P./No: ^{708/02}.....

for extension of
time fixed for
hearing on dtd. 11/10/02.

^Q
24/9/02

M.P./No: ^{709/02}.....

for Condonation
of delay fixed for
hearing on dtd. 11/10/02

^Q
24/9/02

dated (order)
16/10

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH: :MUMBAI

CONTEMPT PETITION NO. 78/2002
IN
ORIGINAL APPLICATION NO. 689/2001

FRIDAY, THE 11TH DAY OF OCTOBER, 2002

CORAM: HON'BLE SHRI JUSTICE BIRENDRA DIKSHIT. VICE
CHAIRMAN
HON'BLE SHRI B.N. BAHADUR. MEMBER (A)

B.R. Dubey,
1 B/ M H B Colony,
Flat No.29, Near Ashokvan
Borivali (E)
Mumbai-400 066.

.. Petitioner

In person

Versus

1. Madam Anit Sahani,
Commissioner Preventive Operation
Customs & Central Excise,
Lok Nayak Bhavan, 4th Floor,
Khan Market, New Delhi-1110 003.
2. Shri S.K. Bhardwaj, Chief
Commissioner of Customs,
New Customs House, Bellar Estate,
Mumbai-400 038.
3. Shri S.C. Rohatgi,
Joint Commissioner of Customs,
Personnel and Estt. Deptt.,
Bellard Pier, New Customs House,
Mumbai-400 038.
4. Cdr. A.V. Laghate,
Additional Director (Marine),
Customs Marine Headquarters,
16, Arthus Bunder Road,
Hotel Waldorf, 2nd Floor,
Colaba, Mumbai-500 005. .. Respondents

By Advocate Shri M.I. Sethna.

O R D E R (ORAL)
Hon'ble Shri B.N. Bahadur. Member (A)

Applicant Shri B.R. Dubey is heard on Contempt
Petition No.78/2002. There is also a Miscellaneous

B.N.

...2.

Petition for extension of time. Shri M.I. Sethna along with Shri V.D. Vadhavkar provided a copy of communication from Deputy Commissioner of Customs, Personnel & Establishment Department F No.S/5-345/2001 Estt dated 10.10.2002. Copy is provided to Shri Dubey who has been spared some time to go through it.

Shri Dubey stated that the facts given in the letter are wrong. We go back to the order made in the Original Application and we find that the direction given to the applicant as follows:-

"We therefore direct the applicant to place before the respondents all details in a representation for decision in accordance with law. if the respondents allow the benefits in view of the ACP Scheme as claimed by the applicant, the respondents need not refer the matter to Department of Personnel and Training Establishment (B) Section, but the respondents should take decision by passing a speaking order within two months from the date of the receipt of the representation of the applicant and communicate the same to the applicant. In case the matter has to be referred to the Department of Personnel & Training Establishment (B) Section, this information may also be communicated to the applicant. The decision so arrived at by the Department of Personnel & Training may be communicated to the applicant within an additional one month from the date of receipt of the representation of the applicant."

2. What we have to see in the Contempt Petition is only whether the directions are complied. We find that the matter has been decided after consultation with the Department of Personnel & Training and as such the

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directions are complied. There is, ofcourse, a delay in the matter, but we are not convinced that this amounts to wilful disobedience of our order.

3. If the applicant is still aggrieved, his case would lie in a fresh Original Application which can be filed as per law. *Prima facie*, there is no case for contempt. We do not see any reason to go ahead with the matter. We therefore dismiss the Contempt Petition. Copy of communication dated 10.10.2002 is kept on record.

B.N.Bahadur

(B.N. BAHADUR)
MEMBER (A)

B. Dikshit

(BIRENDRA DIKSHIT)
VICE CHAIRMAN

Gajan