

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

Original Application No. 453/2001

Date of Decision: 14.12.2002

CORAM: HON'BLE SHRI A.V. HARIDASAN, VICE CHAIRMAN (J)
HON'BLE SMT. SHANTA SHASTRY, MEMBER (A)

1. Smt. Pushpa Detha working as Customs Appraiser in Appeal Unit, at New Custom House, Ballard Estate Mumbai and residing at 47/1, Lenandri Co-op. Hsg Society, D3:2:4, Sector 19-A, Nerul, Navi Mumbai 400 076.
 2. R.S. Bhaskar, working as Customs Appraiser in Group 7, New Custom House, Ballard Estate, Mumbai & residing at 409, 'C' Wing, Neptune, 4th Cross Lane, Lokhandwala Complex, Andheri (West), Mumbai.
 3. Ved Prakash, working as Customs Appraiser in Adjudication Section, New Custom House, Ballard Estate, Mumbai & residing at B-706, Horizon Raheja Vihar, Powai, Mumbai 400 072.
 4. Smt. R. Alex, working as Customs Appraiser, Postal Appraising Section, Foreign Post Office, Ballard Estate, Mumbai & residing at B-194, Vaishali Tower, Vaishali Nagar, B.R. Roa, Mulund (West), Mumbai 400 080.
 5. Rajan B. Pednekar, working as Customs Appraiser, Audit Department New Custom House & residing at Sudarshan, 18/525, Pant Nagar, Ghatkopar East, Mumbai 400 075.
 6. J.S. Duhan, working as Customs Appraiser at Jawahar Custom house, Dist. Raigarh & residing at 702 Nav Kiran Bldg., St. Anthony Road, Vidya Nagari P.O. Mumbai 400 098.
- ... Applicants

(Applicants by Mrs. Sawant with Shri G.K. Masand, Advocate)

vs.

1. Union of India, through
the Secretary to the Government of India,
Ministry of Finance,
Department of Revenue,
North Block, New Delhi 110 001.
2. Chief Commissioner of Customs
New Customs House,
Ballard Estate,
Mumbai.
3. Commissioner of Customs (G)
New Customs House, Ballard Estate,
Mumbai. Respondents

(Respondents by Shri V.D Vadhavkar, with Shri M.I. Sethna,
Advocate)

O R D E R (ORAL)

[Per: A.V. Haridasan, Vice Chairman (J)]:

The applicants six in number were promoted from the post of Examiner to the post of Appraiser on adhoc basis. They were promoted on adhoc basis and posted against cost recovery post on the basis of seniority cum fitness by a duly constituted Departmental Promotion Committee and they did not supersede anybody. Their grievance is that having continued on adhoc basis and not considered for regular promotion they are threatened with reversion for the reason that approval of the DOP&T has not been taken for continuance beyond the period of one year. The applicants therefore have prayed for the following reliefs:

(a) That applicants may be granted leave to file this application jointly as they have same and common cause in pursuing this application.

(b) That this hon'ble Tribunal will be pleased to hold and declare that Applicants are entitled to have their promotion regularised as Appraisers vide Estt. Office Orders Nos. 162/2000 dated 30th June 2000 and 183/2000 dated 10.7.2000 made in pursuance of their selection through duly constituted DPC.



(c) That this Hon'ble Tribunal will be further pleased to hold and declare that Respondents are not entitled to revert the applicants from the post of Appraisers to the post of Examiners/Preventive officers on the ground that Applicants promotion as Appraisers has been described as adhoc in Estt. Office Orders Nos.162/2000 dated 30th June 2000 and 183/2000 dated 10.7.2000.

(d) That this Hon'ble Tribunal will be pleased to direct the Respondents to declare the results and implement before 20th June 2001, the recommendations of the DPC held in June 2001.

(e) That until such time Applicants promotion is regularised, Respondents be restrained, by an order and injunction issued by this Hon'ble Tribunal from reverting the Applicants from the post of Appraisers to the post of Examiner/Preventive Officer on the plea that Applicants promotion has been described as adhoc in Estt. Office Ordre No.162/2000 dated 30th June 2000 and 183/2000 dated 10.7.2000.

(f) That in the alternative to prayers clause (e), Respondents be restrained by an order and injunction issued by this Hon'ble Tribunal, from reverting the Applicants from the post of Appraisers to the post of Examiner/Preventive Officer until such time Respondents declare the results of the meeting of the DPC held in June 2001.

2. Learned counsel of the applicant stated that the applicant is not pressing for the prayers in pra 8 (a) to the extent of claiming regularisation from the date of absorption and is seeking any applicants should not be reverted and would be considered for regularisation in their turn. The respondents also have in the reply statement stated that all the applicants were selected for adhoc promotion by duly constituted DPC and that have not superseded by anyone. They contend that the claim of the applicant for regularisation with effect from the date of promotion is not tenable for the reason that they are continuing

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on adhoc promotion against cost recovery post which are of temporary nature. Their regularisation can be considered only in turn as gainst sanctioned post contend the respondents. Regarding prayer of applicants not to revert the applicants the respondents contend that the continuance of the adhoc promotion beyond the period of one year without approval of the DOP&T being against the instructions, the respondents cannot be faulted for reverting the adhoc promotees.

3. We have considered the pleadings and have heard the counsel on either side. The controversy in the case has been narrowed down because the applicants counsel stated that the applicants are not pressing for regularisation from the date of adhoc promotion. The applicants are continuing on adhoc promotion. It is well settled that adhoc appointees shall not be replaced by another adhoc appointee by the judgement of the apex court in the case of State of Haryana vs. Piara Singh (1992) 21 ATC 403. It is admitted in the reply statement that cost recovery post was continued for 20 years. However, in case there is a reduction in the number of cost recovery post, or need to curtail such posts the respondents may have to revert the adhoc promotees. In such a case respondents may have to revert the adhoc promotees on the basis of last come first go. In the light of the above discussion, we disposed of the application with direction to respondents to continue the applicants in the posts of Appraiser on adhoc basis so long as the need to operate the post of Appraiser Customs (P) exist, and that in case of reduction they should ~~posts~~ adopt the policy of last come first

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go while reverting the adhoc promotees. We are informed that applicant No. 1 has already been regularised. No orders as to costs.

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(Smt. Shanta Shastri)
Member (A)



(A. V. Haridasan)
Vice Chairman

sj*