

CENTRAL ADMINISTRATIVE TRIBUNAL, MUMBAI BENCH

OA No.138/2001

Mumbai, this 14th day of June, 2002

Hon'ble Shri S.L. Jain, Member(J)
Hon'ble Shri M.P. Singh, Member(A)

K.T. Barapatre & 31 others
All working as Inspectors in
Central Excise & Customs, Pune
(as per details given in Memo
of parties to OA) .. Applicants

(By Shri S.P. Saxena, Advocate)

versus

Union of India, through

Secretary
Ministry of Finance
North Block, New Delhi and
31 others as per details given
in Memo of parties to OA .. Respondents

(By Shri V.D.Vadhavkar, Advocate)

ORDER

Shri M.P. Singh, Member(A)

Applicants, 32 in number, have challenged the combined seniority list of Inspectors of Mumbai-I to VII/Pune-I/II/Pune Customs/Aurangabad/Goa commissionerate as on 1.1.2000, vide communication dated 29th June, 2000, as according to them their seniority position has not been properly shown.

2. The case of the applicants is that they were appointed directly to the post of Inspector through regular selection process and in accordance with the Recruitment Rules notified in 1979. Respondents have promoted a number of UDCs to the post of Inspectors though they had not completed the prescribed 5 years service in UDC cadre to become eligible for consideration for promotion to the post of Inspectors. This has adversely affected the applicants inasmuch as they have been shown junior to those UDCs promoted as Inspectors. Applicants have therefore prayed

for quashing and setting aside the seniority list dated 29.6.2000 and to assign them proper seniority on the basis of their merit list, year of selection and in their own quota.

3. The case of the respondents in their reply is that the seniority of direct recruit Inspectors has been determined as per Ministry of Home Affairs OM dated 22.12.59 which provides that the relative seniority of all direct recruits shall be determined by the order of merit in which they are selected for such appointment on recommendation of UPSC or other selecting authority, i.e. person appointed as a result of earlier selection being senior to those appointed as a result of a subsequent selection. There is no change in determining seniority of direct recruits in the subsequent DoPT OM dated 3.7.1986. The inter-se seniority between Direct recruit and Promotee Inspectors has been determined as per Ministry of Home Affairs' letter dated 22.12.59 (till the issuance of DoPT's OM dated 3.7.86) and as per DoPT's OM dated 3.7.86. Thereafter, it is on these principles only that the seniority of the direct recruits is fixed. In view of this position, the OA be dismissed.

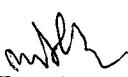
4. Heard the learned counsel for the parties and perused the records.

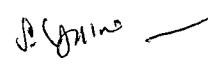
5. During the course of the arguments, the learned counsel for the applicants has drawn our attention to the judgement dated 20.7.2001 in OA 1181/92 and other connected OAs. These OAs were filed by similarly placed persons like the applicants in the present OA which were disposed of by a common order, following the ratio of the judgement of the apex court dated 23.11.2000 in Chief Commissioner of Income Tax & Ors. Vs. Shri Subba Rao & Ors. in Civil Appeals Nos.12414-12417/96, 12376/96, SLP(C)

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7519/97 and 19683/97. The Tribunal vide its order dated 20.7.2001 directed the respondents, which incidentally are the same in the present OA also, to consider the claims of the applicants therein taking into account the relevant provisions of law, including the judgements of the Hon'ble Supreme Court referred to above and pass detailed, speaking and reasoned orders regarding refixation of their seniority in the cadre of Inspectors and that the applicants shall be entitled to consequential benefits as a result of revision of seniority, if any, in accordance with the provisions of law, rules and extant instructions. The learned counsel for the respondents has also brought to our notice another judgement of the Hon'ble Supreme Court dated 16.2.2001 in Civil Appeals No.3054, 3055 and 3056 of 1998 (P.Mohan Reddy etc. Vs. EAA Charles & Others) 2001(2) SC 10. On perusal, we find that this judgement also deals with the fixation of inter-se seniority between the Direct Recruits and the Promotees.

6. Learned counsel for both the parties have agreed that similar directions may also be passed in the present OA. In view of this position, the present OA is also disposed of with the directions to the respondents to consider the claim of the applicants taking into account the relevant provisions of the law including the judgements of the Hon'ble Supreme Court referred to above and pass detailed and reasoned orders regarding refixation of applicants' seniority in the cadre of the Inspectors, within a period of four months from the date of receipt of a copy of this order. The applicants shall be entitled to consequential benefits, if any, in accordance with law, rules and instructions. No costs.


(M.P. Singh)
Member(A)


(S.L. Jain)
Member(J)

/gtv/

CENTRAL ADMINISTRATIVE TRIBUNAL, MUMBAI BENCH

RA No.42/2002 in OA No.138/2001

Mumbai, this 5th day of November, 2002

Hon'ble Shri S.L. Jain, Member(J)
Hon'ble Shri M.P. Singh, Member(A)

K.T.Barapatre & others .. Applicants

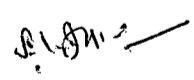
versus

Union of India & Another .. Respondents
(Shri V.D.Vadhavkar, Advocate)

ORDER(in circulation)
By Shri M.P. Singh, Member(A)

The present RA is filed on behalf of the Union of India for review of our judgement dated 14.6.2002 by which OA No.138/2001 was disposed of with certain directions. Review is sought on the plea that there is an inadvertent error in para 6 of the judgement inasmuch the words "The learned counsel for both the parties have agreed...." need to be modified to delete any reference to the effect that the counsel for respondents had agreed to the directions as stated by the Tribunal. We have considered this aspect. Since our directions to the respondents was to consider the claim of the applicants taking into account the relevant provisions of the law including the judgements of the Hon'ble Supreme Court referred to therein and to pass a detailed and reasoned orders regarding refixation of applicants' seniority in the cadre of Inspectors, the above words cannot be termed as an inadvertent error as claimed by the respondents. In view of this position, the present RA is not maintainable and is accordingly dismissed.


(M.P. Singh)
Member(A)


(S.L. Jain)
Member(J)

/gtv/