

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH: BANGALORE

TODAY THE THIRTIETH APRIL, 1987

Present:

Hon'ble Mr Ch.Ramakrishna Rao - Member(JM)

and

Hon'ble Mr P.Srinivasan - Member(AM)

APPLICATION NO. 70 OF 1987(F)

C.S.SHUNMUGASUNDARAM,
Retired Assistant Collector,
Central Excise - Applicant

(In Person)

Vs

1. Secretary,
Ministry of Finance,
Department of Revenue,
New Delhi.
2. Collector,
Central Excise,
Bangalore. - Respondents

(Shri M.Vasudeva Rao .. Central Govt. Standing Counsel)

This application coming on for hearing, Member(AM)
made the following:

O R D E R

In this application filed under Section 19 of the Administrative Tribunals Act, 1985(the Act), the applicant, who retired as Assistant Collector of Customs and Central Excise on 28-2-1982 complains that he should have been placed in the senior scale of Assistant Collector with effect from 9-5-1981 and that that has not been done by the respondents. By not being placed in the senior scale from that date, he has been put to loss of pay and allowances up to the date of his retirement on 28-2-1982 and corresponding loss of retirement benefits.

2. Shri M.Vasudeva Rao, learned counsel for the respondents, raises a preliminary objection that this

P. Srinivasan

application is barred by limitation. The applicant's representation that he be placed in the senior scale was rejected by the Government of India by letter dated 20-2-1984 i.e. prior to the setting up of this Tribunal. According to Section 21(2) of the Act, the latest date by which an application could have been filed against the said order was 1-5-1986. The present application has been filed on 30-1-1987 and is therefore barred by limitation.

3. The applicant submits that after he received the reply dated 20-2-1984, some of his colleagues had raised a similar grievance in applications filed before this Tribunal and those applications had been allowed by this Tribunal by order dated 28-10-1986. As soon as he came to know of this, he filed the present application because his case was on the same grounds as those of the applicants before this Tribunal. In the circumstances, he pleads that the delay may be condoned.

4. After hearing both sides, we are satisfied that this is a fit case for condonation of delay. The delay in filing the application is, therefore, condoned.

5. As for the merits of the application, the applicant contends that in terms of Government orders dated 6-3-1979 and 7-3-1979, he should have been placed in the senior scale on completion of four years of service as Assistant Collector of Customs. He was appointed as Assistant Collector of Customs and joined duty on 9-5-1977. He completed four years of service on 8-5-1981. Therefore, according to him, he should have been placed in

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the senior scale from 9-5-1981.

6. The contention of the respondents put forward by Shri Vasudeva Rao is firstly that the case of the applicant for being placed in the senior scale would be governed by Government's letter dated 31-7-1982 according to which the applicant could not be placed in the senior scale before direct recruits senior to him were put on that scale. His next objection is that even in terms of Government's letter dated 6-3-1979, the applicant was not eligible to be placed in the senior scale before he retired on 28-2-1982 because he had not completed four years of regular service in the junior scale ^{by} ~~from~~ that date.

7. In reply, the applicant contends that the facts of his case are similar to ^{those} ~~that~~ of Shri B.J.Rai VS UOI and others in Application No. 1011/86 decided by this Tribunal on 28-10-1986. In the said order, this Tribunal held that Government's letter dated 31-7-1982 cannot apply to those who retired before that date. Respectfully following that order, we hold that the said letter dated 31-7-1982 will have no application to the present case also because the applicant retired before that date, i.e. on 28-2-1982. If, therefore, the applicant is eligible to be placed in the senior scale in accordance with Government's letter dated 6-3-1979, he would be entitled to the benefits flowing from that letter. We would, therefore, direct the respondents to consider the case of the applicant in terms of the Government's letter dated 6-3-1979 and if, on the terms of that letter, he is eligible for promotion to the senior scale before his retirement, he be placed in that scale and given all

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CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

APPLICATION No. 79/87 (F)

(WP. NO.)

COMMERCIAL COMPLEX, (BDA)
INDIRANAGAR,
BANGALORE-560 038.

DATED: 5 MAY 1987

APPLICANT

Vs

RESPONDENTS

C. S. Shanmugasundaram
TO

Secretary Ministry of Finance
& another.

1. One. C. S. Shanmugasundaram
Retired Assistant Collector of
Central Excise,
No. 53, 2nd Main,
Prasanthanagar, Vijayanagar
(North)
BANGALORE-79.

Secretary,
Ministry of Finance
Department of Revenue,
Government of India
New Delhi.

3. Collector of Central
Excise,
Queen's Road,
Bangalore-1.

4. S. M. Vasudeva Rao
Addl. Central Govt.
Standing Counsel,
High Court Bldgs.
Bangalore.

SUBJECT: SENDING COPIES OF ORDER PASSED BY THE
BENCH IN APPLICATION NO. 70/87 (F)

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Please find enclosed herewith the copy of the Order
passed by this Tribunal in the above said Application on

30-4-87.

ENCL: As above.

DEPUTY REGISTRAR
(JUDICIAL)