

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH  
.....

Commercial Complex(BDA),  
Indiranagar,  
Bangalore- 560 038.

Dated: 13 JUL 1988

APPLICATION NO 895 /87 (F)

W.P.No. \_\_\_\_\_

APPLICANT

Vs

RESPONDENTS

Shri T.N. Ramamurthy

The Collector of Central Excise & Customs,  
Bangalore & 4 Ors

To

1. Shri T.N. Ramamurthy  
45, Mala Road  
Bangalore -
2. Shri Shantaram Sawant  
Advocate  
26/1, 1st Cross  
Miller's Road  
Benson Town  
Bangalore - 560 046
3. The Collector of Central Excise  
and Customs  
Central Revenue Buildings  
Queen's Road  
Bangalore - 560 001
4. Shri P.K. Shivananda  
Inspector of Central Excise  
Office of the Additional Collector  
of Customs  
Mangalore
5. Shri B. Shyam Sunder Rao  
Inspector of Central Excise  
Integrated Divisional Office  
Mangalore

6. Shri Hariprasad Amin  
Inspector of Central Excise  
Office of the Additional Collector of  
Customs  
Mangalore
7. Shri Ahmed Pasha  
Inspector of Central Excise  
East Division  
Infantry Road  
Bangalore - 560 001
8. Shri M.S. Padmarajaiah  
Central Govt. Steno Counsel  
High Court Building  
Bangalore - 560 001

Subject: SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/~~STAY~~

~~INTERIM ORDER~~ passed by this Tribunal in the above said application  
on 6-7-88.

485/88  
K. N. S. S. S.  
13-7-88  
Recd  
copy  
T.N. Ramamurthy  
Applicant  
Encl: as above.

SECTION OFFICER  
(JUDICIAL)

CENTRAL ADMINISTRATIVE TRIBUNAL: BANGALORE

DATED THIS THE 6TH DAY OF JULY, 1988.

PRESENT:

Hon'ble Mr. Justice K.S. Puttaswamy,

.. Vice-Chairman.

And

Hon'ble Mr. L.H.A. Rego,

.. Member(A)

APPLICATION NUMBER 895 OF 1987

T.N. Ramamurthy,  
S/o T.N. Natesan,  
Major, Occ: Inspector of  
Central Excise, residing at No.45,  
Nala Road, BANGALORE.

.. Applicant.

(By Sri Shantaram Savant, Advocate)

v.

1. The Collector of Central Excise and Customs,  
Central Revenue Building,  
Queen's Road, P.B.No.5400,  
Bangalore-560 001
2. P.K. Shivananda,  
Father's name not known,  
Major, Occ: Inspector of Central  
Excise, presently working in  
Office of Additional Collector  
of Customs, Mangalore.
3. B. Shyam Sunder Rao,  
Major, Inspector of Central Excise,  
Integrated Divisional Office,  
Mangalore.
4. Hariprasad Amin,  
Major, Inspector of Central Excise,  
presently working in the office  
of the Additional Collector's office,  
Mangalore.

Ahmed Pasha,  
Major, Occ: Inspector of Central Excise,  
East Division, Infantry Road,  
Bangalore-560 001.

.. Respondents.

(By Sri M.S. Padmarajaiah, Standing Counsel).

This application having come up for hearing this day, Vice-Chairman made the following:

ORDER

This is an application made by the applicant under Section 19



of the Administrative Tribunals Act, 1985 ('the Act').

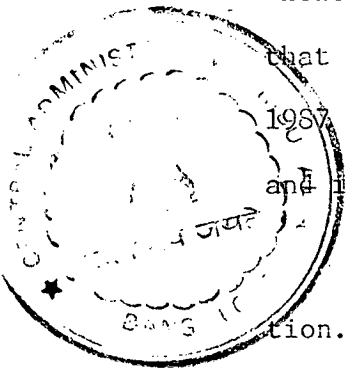
2. When the applicant was working as Inspector of Central Excise and Customs (Inspector), in a disciplinary proceeding instituted against him under the Central Civil Services (Classification, Control and Appeal) Rules, 1965, Government by its Order dated 13-8-1982 inflicted on him, the penalty of compulsory retirement from service from 25-8-1982. The applicant challenged the validity of the same before the High Court of Karnataka in Writ Petition No.12822 of 1983 which on transfer to this Tribunal under Section 29 of the Act was registered as A.No.1077 of 1986 (T). On 1-5-1987 a Division Bench consisting of Hon'ble Sri P.Srinivasan, Member (A) and Hon'ble Sri Ch.Ramakrishna Rao, Member (J), disposed of the same modifying that punishment in these terms:

"Taking all the facts into account and taking an overall view of the matter, we feel that compulsory retirement is harsh. The penalty imposed by the appellate authority of reduction of pay by four stages seems to be a fair punishment with the modification that the reduction shall continue to be in force till the applicant is reinstated as a result of this order and not for a period of three years only as ordered by the appellate authority. The period for earning increment will start running after the date of reinstatement".

In pursuance of this order, the applicant has been reinstated in service from 31-7-1987 and he is working ever since then in that capacity. After his reinstatement in service, the Collector of Central Excise, Bangalore ('Collector') in his order No.14307 dated 26-10-1987 had promoted respondents 2 to 5 as Superintendents of Central Excise ('Superintendents') from 1-11-1987. The applicant claims that those promoted as Superintendents by the Collector on 26-10-1987 were all juniors to him and his supersession was unjustified and illegal.

3. Respondent No.1 has filed his reply resisting this application.

4. Shri Shantaram Sawant, learned counsel for the applicant,



contends, that in terms of the order made by this Tribunal in A.No.1077 of 1986, his client must be deemed to be in service from 1-5-1987 and that being so, non-consideration of his case for promotion when respondents 2 to 5 were promoted, was violative of Article 16 of the Constitution and illegal.

5. Shri M.S.Padmarajaiah, learned Senior Central Government Standing Counsel appearing for respondent-1 contends that the applicant who was not a 'confirmed' Inspector as on 21-5-1987 was not eligible for promotion and non-consideration of his case for promotion on that date and the promotion of respondents 2 to 5 from 1-11-1987 were legal and valid.

6. We regret to record that in his reply respondent-1 had not really answered the case and had not furnished any useful information to decide the controversies that arise for determination in this case. In answer to our pointed query, Sri Padmarajaiah informed us that the Collector had promoted respondents 2 to 5 on 26-10-1987 on the basis of the proceedings of a Departmental Promotion Committee ('DPC') held on 21-5-1987 and the DPC had not considered the case of the applicant on that day for promotion.


7. We have earlier reproduced the operative portion of the order made by this Tribunal in A.No.1077 of 1986. The effect of the same was that the applicant though not in fact but in law, stood restored to service as an Inspector enjoying the appropriate rank and status he occupied earlier. In other words he should be deemed to be in service as on 21-5-1977 on which day, the DPC considered the cases of eligible officials for promotion and the Collector promoted respondents 2 to 5 as Superintendents.

8. In the Seniority List produced by the applicant (Annexure-A) the correctness of which is not disputed by the respondents, the



applicant is found at Sl.No.66. In the same Seniority List we notice, that respondents 2 to 5 occupy lower ranks than the rank of the applicant. From the Seniority List of Inspectors, we can safely conclude that respondents 2 to 5 whatever be their tenure or the tenure of the applicant on which we express no opinion, were juniors to the applicant. On the basis of the rankings of the applicant and respondents 2 to 5 in the cadre of Inspectors, the DPC was bound to consider the case of the applicant for promotion along with respondents 2 to 5 who were juniors to him. In such consideration what all factors should be taken or not is a matter for the DPC and the Collector to examine and decide. We, therefore, do not propose to deal with them at this stage. But, one thing that is clear is the DPC and the Collector in not considering the case of the applicant while considering and promoting respondents 2 to 5 have clearly violated Article 16 of the Constitution. On this view, we have no alternative but to direct respondent No.1 to re-examine the case of the applicant along with the cases of respondents 2 to 5 with the assistance of a Special Review DPC for that purpose and regulate the matters in accordance with law. But, till then we consider it proper to permit respondents 2 to 5 to continue to hold the promotional posts with liberty to the Collector to revert any of them, if that becomes necessary.

9. In the light of our above discussion we make the following orders and directions:

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- (1) We quash the proceedings of the DPC dated 21-5-1987 and Order No.143/87 dated 26-10-1987 (Annexure-B) of the Collector, only insofar as it relates to the promotion of respondents 2 to 5. But, notwithstanding the same, we permit respondents 2 to 5 to hold the promotional posts till the matter is redone.
  - (2) We direct the Collector to reexamine the case of the applicant and respondents 2 to 5 for promotion to the posts of Superintendents from 1-11-1987 with the

assistance of a Special Review DPC for that purpose and regulate the promotions and reversions in accordance with law with all such expedition as is possible in the circumstances of the case and in any event within a period of four months from the date of receipt of this order.

10. Application is disposed of in the above terms. But, in the circumstances of the case, we direct the parties to bear their own costs.

sd/-  
VICE-CHAIRMAN. 6/2/88  
TRUE COPY

sd/-  
MEMBER(A)!  
6.7.88



SECTION OFFICER  
CENTRAL ADMINISTRATIVE TRIBUNAL  
ADDITIONAL BENCH  
BANGALORE  
13/7/88



STATIONERY CHARGE 15 P

अन्तर्देशीय पत्र कार्ड  
INLAND LETTER CARD



To

Vice Chairman Sri. K. S. Puttaswamy  
Honourable justice of Central Adminis-  
-trative Tribunal; Commercial Complex  
Indiranagar (B.D.A)  
BANGALORE पिन PIN 

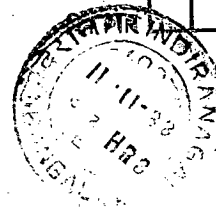
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तीसरा मोड़ THIRD FOLD

इस पत्र के भीतर कुछ न रखिए NO ENCLOSURES ALLOWED  
पते में पिन कोड लिखें WRITE PIN CODE IN ADDRESS  
प्रेषक का नाम और पता :— SENDER'S NAME AND ADDRESS :—

Recd on 11/11/88  
In/rove  
11/11/88



पत्रा में SECOND FOLD