

(47)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GULESTAN BLDG. NO. 6, PRESCOT RD, 4TH FLR,
MUMBAI BENCH
MUMBAI-400 001.

ORDER ON CP-165/95 in ORIGINAL

APPLICATION NO. 556/91.

DATED THIS 2nd DAY OF DECEMBER, ^{January} 98.

CORAM : Hon'ble Shri B.S. Hegde, Member (J).
Hon'ble Shri M.R. Kolhatkar, Member (A).

K.D. Nandgave,
Inspector, Central Excise Department,
Division-VIII,
Range-VIII,
Andheri,
Mumbai.

... Contempt Petitioner

By Advocate Shri M.S. Ramamurthy.

V/s.

Union of India & Ors.

And

1. Shri N. Obhrai,
Commissioner of Central Excise,
Bombay I Collectorate,
M. K. Road, Churchgate,
Bombay - 400 020.

2. Shri K. K. Srivastava,
Additional Commissioner of
Central Excise,
Bombay-II Collectorate,
Piramal Chambers, Lalbaug,
Bombay - 400 012.

... Respondents

By Advocate Shri P.M. Pradhan.

TRIBUNAL'S ORDER

I Per Shri M.R. Kolhatkar, Member (A) X

This OA was decided on 9/11/94. The Tribunal had passed a detailed Interim Order in this CP on 18/11/96. In terms of the Interim Order, two affidavits have been filed. In the affidavit by Shri K.K. Srivastava, Additional Commissioner dated 21/8/97, it is stated that said Shri Srivastava was not concerned with the matter in any manner except communicating the result of the applicant ^{ling} as conveyed by the Cadre Control Authority. In the affidavit filed by Shri N. Obhrai, then Commissioner of Central Excise, Bombay-I, it is stated that the review DPC was

held on 19/6/95. The detailed composition of the review DPC is also set out in the affidavit. It is stated that in so far as first two years are concerned, even in the review DPC, applicant was found unfit for promotion and as far as the third year is concerned DPC found him below the bench mark and hence found him unfit for promotion. It is further stated that at the time of considering the case of the petitioner, the entire record was placed before the committee which was supplied with necessary documents.

2. The counsel for the Contempt Petitioner has argued that after reading the judgement of the Tribunal, no body of reasonable persons could come to the same conclusion as the earlier DPC. According to him the affidavit filed in this case was pretended compliance and not real compliance.

3. We have considered the matter. It is well settled that a Government Officer has no right to promotion; he has only a right to be considered for promotion. It is also well settled that the Tribunal may not step in the shoes of the DPC and direct promotion of an officer irrespective of the decision of the DPC. We are therefore doubtful whether we can grant any further relief in this matter especially as part of CP whose scope is also narrow.

4. Taking an over all view of the facts and circumstances of the case, we are not inclined to pursue the CP further. CP-165/95 is discharged.

M.R.Kolhatkar
(M.R.KOLHATKAR)
MEMBER (A)

B.S.Hegde
(B.S.HEGDE)
MEMBER (J)

abp.

jmcc