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CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH.

ORIGINAL APPLICATION NO. : 1448 of 1995.

Dated this Friday, the 28th day of July, 2000.

Nanda Ramaiya Kudriqi, Applicant.

Shri Ramesh Ramamurthy, Advocate for the applicant.

VERSUS

Union of India & Others, Respondents.

Shri M. I. Sethna alongwith Advocate for
Shri V. D. Vadhavkar, the respondents.

CORAM : Hon'ble Shri B. S. Jai Parameshwar, Member (J).

Hon'ble Shri Govindan S. Tampi, Member (A).

(i) To be referred to the Reporter or not ?

(ii) Whether it needs to be circulated to other Benches of the Tribunal ?

(iii) Library.

No

(B.S. JAI PARAMESHWAR)
MEMBER (J).

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Nanda Ramaiya Kudrigi,
Inspector of Central Excise,
Audit Section,
HQrs. Bombay-II Collectorate,
Piramal Chambers, Lalbaug,
Bombay - 400 012.

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Applicant

(By Advocate Shri Ramesh Ramamurthy)

VERSUS

1. Union of India through
The Secretary,
Ministry of Finance,
Department of Revenue,
Government of India,
North Block,
New Delhi - 110 001.

2. The Commissioner of Central
Excise,
Bombay-I Collectorate,
Office of the Commissioner
of Central Excise,
Central Excise Building,
M.K. Road, Churchgate,
Bombay - 400 020.

3. The Commissioner of Central
Excise,
Bombay-II Collectorate,
Piramal Chambers, Lalbaug,
Bombay - 400 012.

... Respondents.

(By Advocate Shri M.J. Sethna alongwith
Shri V. D. Vadhavkar).

O R D E R

PER : Shri B. S. Jai Parameshwar, Member (J).

Heard Shri Ramesh Ramamurthy, the Learned Counsel for the
applicant and Shri M. J. Sethna alongwith Shri V. D. Vadhavkar,
the Learned Counsel for the respondents.

2. The applicant herein served the Indian Navy from January, 1963 to January, 1978. While he was serving the Indian Navy as Leading Medical Assistant, he was discharged from the Navy Service w.e.f. 31.01.1978 as per exhibit 'A' and 'B' to the O.A. After his discharge from the Navy Service, he was re-employed as Inspector of Central Excise under the Respondents' department.

3. The applicant submitted a representation dated 28.04.1992 requesting the respondent authorities to count his Navy Service for purposes of seniority and promotion. However, the respondent authorities misinterpreted the said representation as one for securing civil pension counting his Navy Service as a single pension. Accordingly, relying upon the Rule 19(1)(b) of the C.C.S. (Pension) Rules, 1972, ^{they} directed the applicant to surrender the pension and pensionary benefits drawn by him from the Navy. As a reply to the said letter, the applicant in his representation dated 31.10.1990 stated that his intention was not to count his Navy Service towards civil service for ^a single pension but it was to count his Navy Service for the purpose of seniority and promotion. Further, he relied upon the letter dated 13.08.1986, a copy of which is at exhibit 'I', page 30 to the O.A., to support his contention. The relevant portion in the said letter reads as follows :

"The whole issue has been considered at length and it has been decided that banks may allow for the purpose of seniority in promotion, to their ex-servicemen employees recruited against reserved post in the clerical and subordinate cadres, weightage for the period of service rendered by them in the armed forces in the ratio of 5:1 subject to a maximum of 2 years after they have rendered at least 3 years actual service in the banks after re-employment. This benefit will be available to the ex-servicemen once during their career."

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4. There was no response to the representation of the applicant.

5. Hence, the applicant has filed this application for the following reliefs :

- "(a) That it be declared that the action of the respondents in not granting the benefit of past military service to the Applicant for the purposes of seniority and promotion, is arbitrary, discriminatory and violative of Articles 14 and 16 of the Constitution of India.
- (b) That it be declared that the applicant is entitled to count his past Indian Navy Service, for seniority and promotion atleast upto two years, as allowed in the case of Ex-Servicemen employed in the Banking Sector.
- (c) That the respondents be directed to refix the seniority of the applicant in the grade of Inspector of Central Excise by adding two years of his service and grant him consequential promotion, monetary benefits, etc. and
- (d) That the Respondents be directed to refix the seniority of the applicant, on the basis of continuous officiation, above all Inspector Direct Recruits or Promotees, who were appointed as Inspectors after 26.09.1976 and grant the applicant consequential promotion and other benefits."

6. The respondents have filed a written statement. The respondents, in our opinion, have not understood the clear case of the applicant. His case is for counting the Navy Service for purpose of seniority and promotion. He is not asking for a civil service pension counting the service as a single pension, in which event he should surrender all the pensionary benefits drawn by him from the Navy in accordance with the Rules 19 (1) (b) of the C.C.S. (Pension) Rules, 1972.



7. The respondents in their written statement submit that the Banking Sector might have taken a decision to provide such a benefit to the Ex-Servicemen re-employed in the Banks. For this, ^{also} the applicant has clearly stated that his department comes under the Ministry of Finance and why the same benefit could not be extended to him. The respondents have not correctly stated the rule position even in the written statement. It is not known whether an Ex-Servicemen on re-employment is eligible to claim the service rendered by him in the Army or Navy for the purpose of seniority and promotion. Further, they submit that this point requires to be decided by the Central Board of Excise & Customs and that the applicant has not submitted his representation to the Board.

8. In the absence of any definite opinion from the department, we are not in a position to accept the contention of the applicant. The applicant has made his intention clear that he wants the services rendered by him in the Navy to be counted for the purpose of seniority and promotion.

9. As the department has not ^{taken} ~~thene~~ any proper and a convincing decision in the matter, we leave it to the department to consider the case of the applicant in accordance with the rules and send a suitable reply to the applicant.

10. The applicant may, if so advised, submit a detailed representation for the benefit which he desires from the respondent department. He shall submit such a representation within one month from the date of receipt of a copy of this



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order. Otherwise, the respondent department may consider the representation already submitted to the department in consultation with the Board.

11. Hence, the following directions are given :

- (i) The applicant may, if so advised, submit a detailed representation for counting his services in the Navy for the purpose of seniority and promotion in the Department.
- (ii) He shall submit such a representation within one month from the date of receipt of a copy of this order. Otherwise, the respondents may consider the representation, a copy of which is at exhibit 'F', page 25 and also exhibit 'H', pages 28 and 29 of the D.A.
- (iii) The respondents shall consider the representation in accordance with the rules and send a suitable reply to the applicant.
- (iv) Time for compliance is four months from the date of receipt of a copy of this order.
- (v) No order as to costs.

(GOVINDAN S. TAMPI)
MEMBER (A).

OS*

Ramd
28/17/2000
(B.S. JAI PARAMESHWAR)
MEMBER (J).