

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH.

ORIGINAL APPLICATION No.: 551/98.

Dated this Monday the 23rd day of September, 2002.

Mr. Anil C. Nair

Applicant

Mr. Sai Kumar

Applicant's  
Advocate.

VERSUS

Union of India & Another

Respondents.

Shri V.D. Vadhavkar for Shri M.I. Sethna

Respondent's  
Advocate

CORAM : Hon'ble Shri B.N. Bahadur, Member (A)  
Hon'ble Shri S.L. Jain, Member (J).

- (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.N. Bahadur )  
Member (A).

H.

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH

O.A.No.551/98.

Monday, this the 23rd Day of September, 2002.

Coram : Hon'ble Shri B.N. Bahadur, Member (A)  
Hon'ble Shri S.L. Jain, Member (J).

Anil C. Nair,  
working as  
Upper Division Clerk,  
Mumbai Customs,  
New Customs House,  
Ballard Estate,  
Mumbai - 400 038.

.. Applicant.

( By Advocate Shri Sai Kumar Ramamurthy )

Versus

1. Union of India, through  
Chief Commissioner of Customs,  
New Customs House,  
Ballard Estate,  
Mumbai - 400 038.
2. Asstt. Commissioner of Customs,  
Personnel & Establishment Deptt.  
New Customs House,  
Ballard Estate,  
Mumbai - 400 038.

..Respondents.

( By Advocate Shri V.D. Vadhavkar  
for Shri M.I. Sethna ).

Order (Oral)

[ Per : Shri B.N. Bahadur, Member (A) ]

We have heard Learned Counsel Shri Sai Kumar Ramamurthy for the applicant and Learned Counsel Shri V.D. Vadhavkar for Shri M.I. Sethna, for the Respondents. At the outset we must recall the relief sought in this O.A. They are as follows:-

"8(a) This Hon'ble Tribunal will be pleased to quash and set aside the impugned order dated 26.06.1998, Exhibit-A hereto.

(b) This Hon'ble Tribunal will be pleased to hold and declare that the Applicant is entitled to seniority as Upper Division  
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Clerk and his name should be placed between Sr. Nos. 342 and 343, i.e. between the names of S.L. Athawale and A.A. Oliveira in Ex.'D' hereto with all consequential benefits of pay, arrears and future promotions.

- (c) This Hon'ble Tribunal will be pleased to order and direct the Respondents to consider the case of the Applicant for the post of Preventive Officer after assigning him proper seniority as prayed for in prayer clause "b" above, with all consequential benefits such as fixation of pay, arrears, future promotions etc.
- (d) Any other or further order as to this Hon'ble Tribunal may deem necessary in the circumstances of the case may be passed.
- (e) Cost of this Original Application be provided for."

Learned Counsel for applicant after seeking instructions from the applicant, who is present in the Court, regarding benefits made available places before us copies of Orders as follows:-

- (i) Establishment Office Order No.150/99 dtd.31.5.99 and
- (ii) Establishment Office Order No.308/99 dtd.15.10.99.

He also brings to our notice letter dated 18.12.2001 addressed to Deputy Commissioner of Customs, Personnel & Estt. Department, New Customs House, Mumbai from Superintendent, Sports & Training of the same office. Shri V.D. Vadhavkar informs us that the respondents have plan considering the case of the applicant for promotion to the post of Preventive Officer and for this purpose he states (on instructions of Shri Mobin) that the applicant is said to be called for an interview by giving him 10 days notice.

2. Upon considering of these facts, it is clear to

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us that the relief sought at sub-para (a) and (b) of para 8 above does not survive. The prayer that survives only is that the prayer at 8 (c). Now as it has been stated admittedly before us that the process of consideration for promotion is under way, we feel that this matter can be disposed of. The point further raised before us by Shri Ramamurthy is that they are not aware that even if promotion is granted whether it will be from the date viz-a-viz seniority as stated by the applicant. Learned Counsel Shri Vadhavkar states that this is something to which also cannot commit and respondents will take a decision on merits.

3. Under the circumstances, we are convinced that this O.A. can be disposed of providing liberty to the applicant to come to this Tribunal in case he is aggrieved by the decision taken on the selection process for his promotion to the post of Preventive Officer. It is clarified that we have not gone into the merits of the case as to whether such promotion has to be given or if so from which date. These questions are left open. We provide liberty to the applicant, accordingly.

4. With the above orders/directions, the O.A. is disposed of, with no order as to costs.

Copies of the documents listed above are kept on record.

*P. G. Jain*  
( S.L. Jain )  
Member (J)

*B. N. Bahadur*  
( B.N. Bahadur )  
Member (A).

H.