

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD.

O.A.No.283/89.

Date of Judgment 8.11.1991.

J.Ramakrishnan

.. Applicant

Vs.

Union of India,
represented by its
Secretary,
Ministry of Finance,
Department of Revenue,
New Delhi.

.. Respondent

Counsel for the Applicant : Shri V.Jogayya Sarma

Counsel for the Respondent : Shri N.Bhaskara Rao, Addl. CGSC

CORAM:

Hon'ble Shri R.Balasubramanian : Member(A)

Hon'ble Shri T.Chandra Sekhar Reddy : Member(J)

[Judgment as per Hon'ble Shri R.Balasubramanian,
Member(A)]

This application has been filed by Shri J.Ramakrishnan under section 19 of the Administrative Tribunals Act, 1985 against the Union of India, represented by its Secretary, Ministry of Finance, Department of Revenue, New Delhi. The prayer herein is:

- (1) to declare the Notification No.6/87 - F.No.A-32012/7/85 dated 16.2.88 of the Govt. of India ordering promotions from Level-II to Level-I in the grade of Collectors of Customs, as illegal and to set aside the same, and
- (2) to issue a direction to the respondent to take all further action in the matter of appointments to higher posts in accordance with the seniority lists in the grade of Collectors as on 1.10.87.

2. The applicant who joined the Indian Customs & Central Excise service in July, 1963 was, at the relevant time, functioning as Collector of Central Excise & Customs, Hyderabad. In the list of officers of the Indian Customs &

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Central Excise Service (Excise Service for short) in the grade of Collectors & Dy. Collectors as on 1.4.86. the applicant was shown at Serial No.7. Consequent to the implementation of the recommendations of the IVth Pay Commission the Government merged ^{the} two scales Rs.2250-2500 (Level-II) and Rs.2500-2750 (Level-I) in the Organised Central Service into a single scale Rs.5900-6700 w.e.f. 1.1.86. In view of this, there could be only one grade of Collectors w.e.f. 1.1.86 as against two grades prior to that date. In the list of officers in the Excise Service in the grade of Collectors & Dy. Collectors as on 1.10.87 the applicant was shown at Serial No.30 and he maintained the same position vis-a-vis others in the list as on 1.4.86. In the said list, the grade of Collectors was shown as single grade without any distinction between Level-I and Level-II. While matters stood thus, by the impugned notification dated 16.2.88 certain officers were promoted from Level-II to Level-I w.e.f. 9.12.86. The applicant was piqued at this promotion when the distinction between the two levels had vanished w.e.f. 1.1.86. He, therefore, sought a clarification from the Department that the impugned order dated 16.2.88 does not affect his seniority in the grade of Collectors ~~in the service~~ ^{since} there was to be no distinction between Level-II and Level-I w.e.f. 1.1.86 from which date the two levels had been merged into one. Not getting a reply, the applicant has approached this Tribunal with the prayer as stated earlier.

3. The respondents have filed a counter affidavit and oppose the prayer. It is admitted that w.e.f. 1.1.86 the two levels had been merged into one. It is stated that in May, 1985 a proposal was sent by the Department of Revenue to the U.P.S. for selection of officers from Level-II to Level-I against the vacancies pertaining to the years 1984 & 1985. The Departmental Promotion Committee (D.P.C. for short) met on 16.8.86 and recommended the panel of officers for promotion from Level-II to Level-I. This was approved by the competent

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authority on 9.12.86. Since the vacancies pertain to the years 1984 & 1985 before merger of the two levels, the respondents issued an order against these vacancies. It is, therefore, contended that their action is in order.

4. We have examined the case and heard the learned counsels for the applicant and the respondent. The main contention of the applicant is that long after the merger of the two levels the respondent cannot perpetrate the distinction by issuing promotion orders from Level-II to Level-I. As against this, the respondent contends that the promotions were against the vacancies prior to the merger and, therefore, in order.

Our attention was drawn to a decision of the Principal Bench of this Tribunal in O.A.No.1455/90. The point of law settled in that ^{case} is identical to the case before us. In fact, the applicant before us was Respondent No.9 in that case filed by one of the promotees from Level-II to Level-I to sustain the promotion. After analysing all the points concerned in depth, the Principal Bench of this Tribunal came to the conclusion that the promotion from Level-II to Level-I effected long after the merger was illegal and they, therefore, set aside and quashed the notification dated 16.2.88 which the applicants/ herein wants to be quashed. The Principal Bench further directed the respondent that all promotions would be ordered in accordance with the seniority list as on 1.10.87 issued by them on 5.5.88.

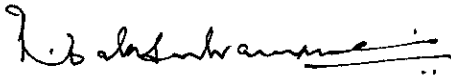
5. In view of the above, following the judgment of the Principal Bench, we quash the Notification No.6/87 - F.No.A-32012/7/85/dated 16.2.88. We further direct that the respondents/ shall order promotion in accordance with the seniority list issued by them on 5.5.88 indicating the

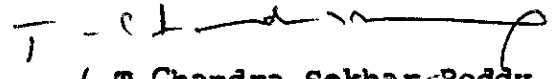
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position in the grade of Collectors/Dy. Collectors as on
1.10.87. There is no order as to costs.


(R. Balasubramanian)
Member(A).

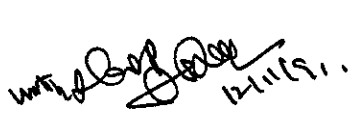

(T. Chandra Sekhar, Paddy
Member(J).)

Dated 8th November 91.


Deputy Registrar(J)

- 1-b* To
1. The Secretary, Ministry of Finance, Union of India,
Department of Revenue, New Delhi.
 2. One copy to Mr. V. Jogayya Sarma, Advocate, CAT. Hyd.
 3. One copy to Mr. N. Bhaskar Rao, Addl. CGSC, CAT. Hyd.
 4. One spare copy.

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12/11/91.

TYPED BY

COMPARED BY

CHECKED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR.

AND

THE HON'BLE MR.

AND

THE HON'BLE MR. R. BALASUBRAMANTAN: M(A)

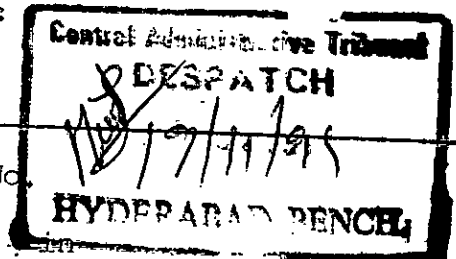
AND

THE HON'BLE MR. T. Chandru & Khaskelly M(J)

DATED: 8 - 11 - 1991

ORDER/ JUDGMENT:

M.A./R.A./C.A. No.



O.A.No.

283/89 ✓

T.A.No.

(W.P.No.)

Admitted and Interim directions
Issued.

Allowed. ✓

Disposed of with directions

Dismissed.

Dismissed as withdrawn.

Dismissed for Default.

M.A. Ordered/Rejected

No order as to costs.