

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH (50)
AT HYDERABAD

OA.344/91

date of decision : 24-8-1993

Between

J. Balakrishna

: Applicant

and

1. Govt. of India, rep. by
the Secretary
Ministry of Finance
Lok Nayak Bhavan
New Delhi

2. Principal Chief Controller of
Accounts
Central Board of Excise & Customs
AGCR Buildings
New Delhi 110 002

3. Collector of Customs & Central
Excise
Pay & Accounts Officer's Unit
Customs House
Visakhapatnam

: Respondents

Counsel for the applicant

: P.B. Vijayakumar,
Advocate

Counsel for the respondents

: N.V. Ramana, Addl. SC
for Central Govt.

CORAM

HON. MR. JUSTICE V. NEELADRI RAO, VICE CHAIRMAN

HON. MR. P.T. THIRUVENGADAM, MEMBER (ADMINISTRATION)

Judgement

(As per Hon. Mr. Justice V. Neeladri Rao, Vice Chairman)

✓ Heard Sri P.B. Vijaya Kumar, learned counsel for the
applicant and Sri N.V. Ramana, learned counsel for the
respondents.

2. The applicant is working as Accountant in the office
of the Pay & Accounts Officer, Customs House, Visakhapatnam.

He passed the Departmental confirmatory examination on 21-1-1986. Junior Accountants with not less than three years service and who have passed the Departmental Confirmatory Examination as on 1-1-1988 were promoted to the upgraded post of Senior Accountant on seniority-cum-fitness criterion. Sri M. Umamaheswara Rao, junior to the applicant was promoted as Senior Accountant during the year 1988-1989. But the applicant was not then promoted to the post of Senior Accountant. His representations requesting for his promotion were turned down vide impugned order dated 18-12-1990. The same is challenged in this OA.

3. The DPC met on 15-11-1988 for consideration of Junior Accountants for promotion to the post of Senior Accountant. The case of the applicant was not considered by the DPC as there were adverse entries for 1987 which were communicated to the applicant on 3-5-1988. The applicant submitted his representation on 23-9-1988 as against those adverse remarks. By 15-11-1988 the date on which the DPC met, the said representation was not disposed of. But it was rejected on 30-1-1989.

4. It was contended for the applicant that as his representation as against the adverse remarks were not disposed of by 15-11-1988, the date on which the DPC met, it ought not have taken these adverse remarks into consideration and it should have been proceeded on the basis that such adverse remarks did not exist. But the said contention is not tenable in view of the judgement of the Supreme Court in SC 1970 SLR 926 in R.L. Butail versus Union of India. In the said case the Supreme Court referred to the contention for the employee therein ~~that~~ ^{as} that is the time

for submission of the representation against the adverse remarks of 1964 ^{had} if not expired by the date the DPC met, the same should not have been considered. It was held that the subsequent rejection of the representation would not make any difference. The practice followed by the Promotion Committee in reviewing its recommendations if the Confidential Report is altered or expunged, ^{was} ~~were~~ taken note of by Supreme Court. Thus, it appears that there would not be any injustice when the DPC relied upon the adverse remarks in case ~~where~~ the representation against such remarks was subsequently ^{-ed} rejection, for the question of review does not arise. Hence, in view of the above decision of the Supreme Court, the contention for the applicant is rejected.

5. Accordingly, the OA is dismissed. No costs.

P.T. Thiruvengadam
(P.T. Thiruvengadam)
Member (Admn)

V. Neeladri Rao
(V. Neeladri Rao)
Vice-Chairman

Dated : August 24, 93
Dictated in the Open Court

5/10/93
Dy. Registrar (Judl.)

sk

Copy to:-

1. The Secretary, Ministry of Finance, Govt. of India, Lok Nayak Bhavan, New Delhi.
2. Principal Chief Controller of Accounts, Central Board of Excise & Customs, AGCR Building, New Delhi-002.
3. Collector of Customs & Central Excise, Pay & Accounts Officer's Unit Customs House, Visakhapatnam.
4. One copy to Sri. P.B.Vijayakumar, advocate, CAT, Hyd.
5. One copy to Sri. N.V.Ramana, Addl. CGSC, CAT, Hyd.
6. One copy to Library, CAT, Hyd.
7. One spare copy.

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O.A. 344/91

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. JUSTICE V. NEELADRI RAO
VICE CHAIRMAN

AND

THE HON'BLE MR. A. B. GORTHY : MEMBER (A)

AND

THE HON'BLE MR. T. CHANDRASEKHAR REDDY
MEMBER (JUDL)

AND

THE HON'BLE MR. P. T. TIRUVENGADAM : M(A)

Dated: 24/8/93

ORDER/JUDGMENT: ✓

M.A./P.A/C.A. No.

O.A. No.

in
344/91

T.A. No.

(W.P.)

Admitted and Interim directions
issued.

Allowed

Disposed of with directions

Dismissed

Dismissed as withdrawn

Dismissed for default.

Rejected/Ordered

No order as to costs.

pvm

