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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

O.A.NO. 603/92

Date of Judgment: 21.6.95

BETWEEN:

P.D.LEELA KUMARI

APPLICANT

AND

1. The Secretary, Ministry of Finance,
Department of Revenue, North Block,
New Delhi.
2. The Collector of Central Excise,
Basheerbagh, Hyderabad.
3. The Deputy Collector of Central
Excise (P&V), Basheerbagh,
Hyderabad.
4. The Principal Collector of Central Excise,
Basheerbagh, Hyderabad.

RESPONDENTS

COUNSEL FOR THE APPLICANT

COUNSEL FOR THE RESPONDENTS SHRI

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CORAM:

HON'BLE JUSTICE V.N. LADRI RAO, VICE CHAIRMAN

HON'BLE SHRI R. RANGARAJAN, MEMBER (ADMN.)

COUNSEL FOR THE APPLICANT: SHRI J.VENUGOPALA RAO

COUNSEL FOR THE RESPONDENTS: SHRINV RAMANA
xSk./Addl.CGSC

CORAM:

HON'BLE SHRI JUSTICE V.N. LADRI RAO, VICE CHAIRMAN

HON'BLE SHRI R. RANGARAJAN, MEMBER (ADMN.)

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O.A.NO.603/92.

JUDGMENT

Dt: 21.6.95.

(AS PER HON'BLE SHRI JUSTICE V.NEELADRI RAO, VICE CHAIRMAN)

Heard Shri J.Venugopala Rao, learned counsel for the applicant, and Shri N.V.Ramana, learned standing counsel for the respondents.

2. This OA was filed praying for direction to the respondents to consider the case of the applicant and fix up her seniority as Inspector of Central Excise as is done in the case of Shri M.Hanumantha Rao, in the light of the judgment of the Supreme Court, ^{reported} in AIR 1984 SC 541 (P.K.Ramachandra Iyer Vs. Union of India) and to give her promotion to which she is entitled to on the basis of such seniority with all consequential monetary benefits.

3. The facts which give rise to this OA are as under:-

The applicant joined service as LDC in the Central Excise Department in 1965. She appeared for the written test conducted in 1971 for direct recruitment for the post of Inspector of Central Excise. As she was qualified in the written test, she was called for oral test held in 1972. The merit list was prepared on the basis of the marks secured in the viva-voce. As the applicant secured low marks in the viva-voce, she was not selected.

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4. The Apex Court held in AIR 1984 SC 541 (P.K.Ramachandra Iyer Vs. Union of India) that the panel for direct recruitment has to be prepared on the basis of the aggregate marks obtained in the written test and viva-voce where written test is also conducted. Basing on the judgment of Shri M.Hanumantha Rao who appeared for direct recruitment for the post of Inspector of Central Excise in 1976 as inservice candidate submitted representation that on the basis of the ~~xx~~ aggregate marks obtained by him, he should be declared to have been selected. On consideration of his representation, Shri M.Hanumantha Rao was declared as selected to the post of Inspector of Central Excise on the basis of the aggregate ~~of the~~ marks obtained by him in 1976 examination.

5. Then the applicant submitted representation dated 4.5.1989 before R-2 requesting for review of her case on the basis of the judgment of the Apex Court in Ramachandra Iyer's case. After the applicant submitted several representations, R-3 by the letter No.C.No. II/39/37/89-Estt., dated 29.11.1991 asked the applicant to produce ~~any~~ records ^{if any} available with her in regard to the examination conducted in 1971 for the post of Inspector of Central Excise, in support of her contention. By the letter dated 4.5.1992, R-2 informed the applicant that they were unable to examine her case due to non-availability of ^{the} records relating to the recruitment of

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Inspectors of Central Excise, ^{held} in 1971. It was again reiterated therein that if any records were available with her, they may be sent to the office for further action. Then this OA was filed on 14.7.1992.

6. If the applicant has to be included in the panel for the post of Inspector of Central Excise on the basis of the ~~xx~~ aggregate marks obtained by her in 1971, a direction has to be given to the respondents to appoint her to the post of Inspector of Central Excise from the date on which her junior in the merit list was appointed, as the respondents reviewed the case of Shri M.Hanumantha Rao who appeared in the 1976 examination conducted for the post of Inspector of Central Excise on the basis of the judgment of the Supreme Court in Ramachandra Iyer's case. The aggregate marks can be ascertained only on perusal of the records wherein marks in the written test and the viva voce of the applicant and others who appeared in 1971 examination ^{noted as} are available. It is stated for the respondents that the relevant record in regard to 1971 examination was destroyed on 25.3.1983. It may be noted that the applicant submitted her representation for the first time only in 1989 requesting for reviewing her case on the basis of the judgment ~~xx~~ in Ramachandra Iyer's case. As the relevant record was destroyed even by then, the applicant was requested to

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submit the relevant record if it is available with her. It is stated for the applicant that the relevant record is not available with her and it would not be available with her as it is a secret and confidential record. Be that as it may, it is not possible to decide whether the applicant would have been included in the relevant panel on the basis of the aggregate marks obtained by her as the aggregate marks obtained by her and others in 1971 examination are not now available. It is a case where the respondents submit that the relevant record was destroyed in accordance with the rules. Hence, for want of record, there is no possibility of giving any direction to the respondents to appoint her to the post of Inspector of Central Excise with effect from 1972.

7. In the result, the OA is dismissed. No costs.//

(R.RANGARAJAN)
MEMBER (ADMN.)

(V.NEELADRI RAO)
VICE CHAIRMAN

DATED: 21st June, 1995.
Open court dictation.

Deputy Registrar (J) CC

To vsn

1. The Secretary, Ministry of Finance,
Dept. of Revenue, North Block, New Delhi.
2. The Collector of Central Excise, Basheerbagh, Hyderabad.
3. The Deputy Collector of Central Excise (P&V)
Basheerbagh, Hyderabad.
4. The Principal Collector of Central Excise,
Basheerbagh, Hyderabad.
5. One copy to Mr. J. Venugopala Rao, Advocate,
Advocates' Association, High Court of A.P. Hyd.
6. One copy to Mr. N. V. Ramana, Addl. CGSC, CAT. Hyd.
7. One copy to Library, CAT. Hyd.
8. One spare copy.

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CHECKED BY

COMPARED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD.

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

A N D

THE HON'BLE MR. R. RANGARAJAN: (M(ADMN)

DATED 21/6 1995.

ORDER/JUDGMENT:

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

OA.No. in 603/92

TA.No. (W.P.)

Admitted and Interim directions
issued.

Allowed.

Disposed of with directions.

Dismissed.

Dismissed as withdrawn

Dismissed for default

Ordered/Rejected.

No order as to costs.

No spare copy

