

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

O.A. No.1443/93

Date of Decision: 29.11.1996

BETWEEN:

Smt. L. Usha Srinivasan

.. Applicant

AND

1. The Collector, Central Excise,
Basheer Bagh, Hyderabad.
2. The Union of India Represented by its
Secretary, Ministry of Finance,
Department of Revenue,
New Delhi - 110 001.

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Counsel for the Applicant: Mr. R. Brij Mohan Singh

Counsel for the respondents: Mr. N.V. Ramana

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CORAM:

THE HON'BLE SHRI R. RANGARAJAN: MEMBER(ADMN.)

THE HON'BLE SHRI B.S. JAI PARAMESHWAR: MEMBER (JUDL.)

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JUDGEMENT

(Oral order per Hon'ble Shri R. Rangarajan: Member (Admn.)

None for the applicant. ^{- Heard} Shri Rajeswar Rao for Ramana.

The applicant herein was transferred from Cochin
Collectorate to Hyderabad Collectorate of Central Excise
department in terms of establishment order (N.G.O.) No.69/96
dated 5.4.1984 (Annexure-I). She took charge as U.D.C. at
Hyderabad on 16.4.1984.

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DPC for the post of Inspector of Central Excise was convened in the year 85 to consider existing UDCs of the Hyderabad Collectorate for promotion to the said post. The post is to be filled 75% by recruitment and 25% by promotion. UDCs who had completed 5 years of service in the UDC cadre shall be eligible for promotion to the post of Inspector of Central Excise. The case of the applicant was not considered in the year 1985 for promotion against the 25% quota as it was held by the Department that she had not fulfilled the service eligibility condition of 5 years in the Hyderabad Collectorate as she had joined in that post in Hyderabad only in 1984. Her previous service at Cochin collectorate as UDC was not taken into consideration as the respondents submitted that she came to Hyderabad accepting the bottom service seniority and foregoing the Cochin Collectorate seniority.

The applicant was promoted as tax assistant in 1988 and thereafter as Inspector, Central Excise in the year 1990 as by then she had 5 years of qualifying service at Hyderabad collectorate.

The applicant submits that she approached the authorities against leaving out her name for consideration for the post of Inspector, Central Excise during the year 1985 and promote her from 1985 after considering her case. It is further stated that though the authorities promised to look into her case, nothing was done in that connection. A seniority list was issued in the year 1992 showing the seniority position of the applicant below that of the Inspectors of Central Excise promoted on the basis of the DPC held in the year 1985. Hence she filed a representation to consider her case and give her

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seniority as if she ^{was} ~~is~~ promoted to the cadre of Inspector, Central Excise in Hyderabad in the year 1985 itself by a representation dated 13.2.93 (Annexure A-3). Her representation was disposed of by letter No.C.No.II/26/16/92-Estt-7 dated 22.3.92 (Annexure-IV) on the ground that her representation was a belated one and hence barred by limitation. The judgement of the Madras Bench Tribunal in OA No.401/89 on which she relied upon to substantiate her case was termed to be not relevant to her case.

This OA is filed praying for a direction to the respondents to promote her to the post of Inspector, Central Excise in ~~the~~ year 1985 and for a consequential direction to refix her seniority and pay and allowances on that basis.

The service eligibility has to be reckoned taking into consideration the service rendered by her as UDC in the Cochin Collectorate also. Hence rejection of her case for consideration in the year 1985 for the post of Inspector, Central Excise is irregular. The authority to the above can be found in 1994 (I) SLR P.262 (Smt Renu Malik Vs Union of India.)

The second issue arises whether she can be considered for promotion to the post of Inspector, Central Excise by a review DPC for empanelment in the year 1985 at this distant date. The fact that she was not considered for the post of Inspector, Central Excise ^{was} ~~is~~ known to her immediately after the DPC pannel for 1985 was issued as number of UDCs in Hyderabad collectorate who were working with her, whom she considered junior to her were promoted on the basis of that D.P.C. Hence it cannot be said that she is not aware of the pannel issued

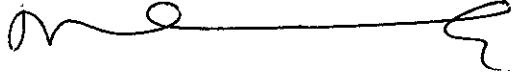
for the post of Inspector, Central Excise in 1985. She should have immediately filed a representation for promoting her also to the post of Inspector, Central Excise taking her service in Cochin Collectorate for the purpose of service eligibility. If she has not received any reply to that representation in the year 1985-86 she should ~~have approached~~ the appropriate judicial forum immediately thereafter. We do not see any reason for her to wait till the seniority list of Inspector, Central Excise is issued in the year 1992 and then represent her case. It has to be held, thereby, that the applicant was not ~~del~~igent in asserting her rights in time. The delay involved in this case makes her in eligible for the relief as prayed for in this OA.

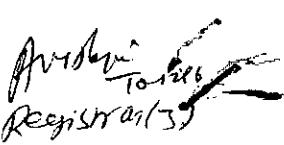
If the seniority is given as prayed for by her in this OA then it will cause prejudice to number of inspectors placed above her in the seniority list. They are not parties ^{to} in this OA. Hence it is further to be held that the application has to be rejected on the basis of ~~non-joinder~~ ^{non-} joinder of necessary and appropriate parties. A similar case, in OA 698/91 on the file of this bench which was decided on 20.1.92, was dismissed on the grounds of limitation.

In view of what is stated above, the OA is liable to be dismissed for laches. Accordingly it is dismissed. No costs.


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

29.11.96


(R. RANGARAJAN)
MEMBER (ADMN.)


D.Y. Registrars

Date: 29TH NOVEMBER 1996
Dictated in the open court