

148

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL-APPLICATION-NOS.19-and-20-OF-1994

DATE-OF-ORDER:- 28th July, 1997

BETWEEN:

O.A.NO.19-of-1994

1. V.RAMU,
2. P.JR SEKHAR

.. APPLICANTS

AND

1. Govt. of India represented by the
Secretary, Ministry of Finance,
Dept. of Revenue, New Delhi,
2. Central Board of Excise & Customs,
represented by its Chairman, New Delhi,
3. The Union Public Service Commission,
represented by its Secretary, New Delhi,
4. C.P.Srivastava,
5. P.K.Jain,
6. Gautam Ray-II,
7. PR Chandrasekharan,
8. Smt.A.Vasudeva,
9. P.Babu,
10. T.Jayaraman,
11. K.Madhusoodanan Nair,
12. Vinod Kumar Singh Khushwa.

.. RESPONDENTS

O.A.NO.20/94

MIJ MICHAEL

.. APPLICANT

AND

1. Govt. of India represented by the Secretary,
Ministry of Finance, Dept. of Revenue,
New Delhi,
2. Central Board of Excise & Customs,
represented by its Chairman,
New Delhi,
3. The Union Public Service Commission,
represented by its Secretary, New Delhi,

....2

- 137
- 4. P.Babu,
 - 5. T.Jayaraman,
 - 6. K.Madhusoodanan Nair,
 - 7. Vinok Kumar Singh Khushwa,
 - 8. Smt.A.Girija Muthangi,
 - 9. Smt.Neerja Shah,
 - 10. Sanjeev Behari,
 - 11. C.Rajan,
 - 12. Suniluke.

.. RESPONDENTS

COUNSEL FOR THE APPLICANTS: Mr.Y.SURYANARAYANA IN BOTH OAs

COUNSEL FOR THE RESPONDENTS: Mr.NR DEVARAJ, Sr.CGSC in both the OAs.

CORAM:

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

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

ORDER

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

Heard Mr.Y.Suryanarayana, learned counsel for the applicants and Mr.N.R.Devaraj, learned standing counsel for the respondents in both the OAs.

2. Contentions are same so also the relief~~s~~ asked for in both the OAs. Hence both the OAs are disposed of by a common order.

3. There are two applicants in OA 19/94 and only one applicant in OA 20/94. The applicants in OA 19/94 were directly recruited to the cadre of Assistant Collectors of Customs and Central Excise in 1978 batch whereas the applicant in OA 20/94 was appointed to that post in 1979 batch. The next promotional post for them is Deputy Collector of Customs and Central Excise.

32

1

12/8

4. The Indian Customs and Central Excise Service Class-I (now called Group-A) was constituted with effect from 15.8.1959 under the Government Resolution dated 12.8.1959 by merging the Indian Customs Service Class-I and Central Excise Service Class-I. The Recruitment Rules were finalised and notified on 17.9.1987. The said Recruitment Rules are enclosed as Annexure R-1 to the reply.

5. Some Group-B Officers in the Customs and Central Excise Department have challenged the Recruitment Rules before the Supreme Court. Initially, the court stayed all the promotions to the Group-A of Indian Customs and Central Excise Services. However, the said stay order ~~partially~~ was vacated on 13.8.1990 by the Apex Court. The Apex Court also later permitted the Government to fill up the said posts to a limited extent. The Supreme Court in its order dated 13.8.1990 passed ^{on} in IAS 6 and 7/90 in W.P.No.4532-33/78 partially vacated the stay and directed adhoc promotions to 157 posts in the grade of Deputy Collectors (57 posts to be filled by officers who are promoted from the feeder line in Group-B posts and 100 posts for direct recruit officers).

6. In compliance with the directions given by the Supreme Court vide its orders dated 13.8.1990 and 9.5.1991, the DPC held meeting from 20.10.1990 and decided the norms. On the basis of the directions given by the Supreme Court, adhoc promotions to the 100 posts of direct recruits and 36 posts of promotees in the cadre of Deputy Collectors were issued vide Office Order No.175/1991 in F.No.A-32012/15/90-Ad.II dated 23.5.91 (Page 15 to the OA). The Departmental

Br

D

Promotion Committee considered the case of the officers for preparation of the panel for filling up seven vacancies each in the years 1986 and 1987, four vacancies in the year 1988, 39 vacancies in the year 1989 and 43 vacancies in the year 1990. The applicants in both the OAs were considered for the vacancies in the year 1989. However, some of their juniors who were awarded higher grading than the applicants have superseded. Hence the applicants in both

One

directly recruited Assistant Collectors of Customs and Central Excise as on 1990 enclosed in file No.A-32012/15/90-AD.II shows Shri V.Ramu, the first applicant in OA 19/94, at Sl.No.33, Mr.PJR Sekhar, the second applicant in the same OA, at Sl.No.46 and the applicant in OA 20/94, Mr.MIJ Michael, at Sl.No.70. The position of the three applicants in the promotion order as Deputy Colector dated 23.5.91 indicates at Sl.No.39, 49 and 74 respectively.

They have filed representation to the concerned on 18.5.92 for restoring their seniority in the grade of Deputy Collectors of Customs and Excise. That representation was disposed of by the impugned order C.No.II/26/7/91-Estt. dated 4.11.1992 (Page 25 to the OA) rejecting their request for restoration of their original seniority.

7. Aggrieved by the above, these two OAs are filed praying

(i) that the proceedings of the Central Board of Excise & Customs communicated by the Collector-I, Central Excise Collectorate, Hyderabad vide letter C.No.II/26/7/92-Estt. dated 4.11.1992 be quashed or set-aside;

R

D

(ii) that a direction may be issued to the respondents 1 to 3 to arrange the names of the persons mentioned in the proceedings in F.No.A-32012/15/90-Ad.II dated 23.5.91 (Office Order No.175/1991) of the Govt. of India, Ministry of finance, Department of Revenue, in such a manner so that it reflects the seniority in the level of Assistant Collector of Customs and Central Excise; and

(iii) direct the respondents 1 to 3 to promote the applicants to non-functional selection grade post of Deputy Collector of Customs & Central Excise on the basis of the seniority in the level of Assistant Collector of Customs and Central Excise.

8. A detailed reply dated 12.5.94 in both the OAs has been filed in connection. In OA 19/94 a rejoinder dated 18.11.1994 by the applicants has been filed. We have gone through all the documents produced in both the OAs and also the affidavit filed by both the parties.

9. The main contention of the applicants in both the OAs are examined seriatim as below:-

(i) The first and the foremost contention of the applicants in both the OAs is that the post of Deputy Collector when filled up on adhoc basis has to be done on the basis of non-selection process i.e, seniority-cum-fitness basis in terms of the Office Memorandum No.28036/8/87-Estt.(D) dated 30.3.1988 of the Ministry of Personnel, Public Grievances and Pensions, Department of

R

D

Personnel & Training (Page 36 to the OA). Though the post of Deputy Collector is to be filled by seniority-cum-merit basis treating the promotion as selection posts, adhoc promotions are to be ordered only on the basis of the seniority-cum-suitability basis. The adhoc promotion should have been ordered by forming a panel on the basis of seniority-cum-suitability. ~~xxxxxxxxxxxxxxxxxxxx~~
The Office Order dated 23.5.91 (Office Order No.175/1991) has been issued by following the principle of seniority-cum-merit which is against the rules. The applicants also submit that their above view is in accordance with the memorandum dated 30.3.88 (Page 36 to the OA) whereⁱⁿ it was stipulated in para 4(iii) that "where adhoc appointment is by promotion of the officer in the feeder grade, it may be done on the basis of seniority-cum-fitness basis even where promotion is by selection method". That was once again emphasised by the Apex Court in Civil Appeals Nos.404-07 of 1987 with connected batch of appeals in their order dated 22.12.1989 while disposing of the CPWs 22348/1988 and I.A.Nos.1-5/88 on 22.12.1989. In the order of the Apex Court dated 13.8.90 instructions were that the promotions to the posts of Deputy Collectors should be done following the circular dated 30.3.1988 of the Department of Personnel on seniority-cum-fitness basis. Hence the promotions made to the post of Deputy Collectors following the seniority-cum-merit is objectionable and hence the arrangement of names in the proceedings dated 23.5.91 (Office Order No.175/1991) is to be amended in such a manner to reflect the seniority in the level of Assistant Collectors of



Customs and Central Excise.

10. The respondents on the other hand submit that the Apex Court by its order dated 13.8.1990 ^{on} in I.A.No.6 and 7/90 had held that the adhoc promotion to the 157 posts of Deputy Collectors are to be effected on the basis of selection-cum-merit by the constitution of appropriate Departmental Promotion Committee. Out of 157 posts, 57 posts are to be filled by the officers who are promoted from the feeder line in Group-B posts and the rest 100 by directly recruited Assistant Collectors in the service. Hence the Office Order dated 23.5.1991 (Office Order No.175/91) has been done strictly in accordance with the directions of the Supreme Court and hence there is no need to revise the Office Order No.175/91 as requested by the applicants. The applicants were also informed accordingly by the impugned order dated 23.5.91.

11. The observation/direction of the Apex Court in I.A.No.6/90 dated 13.8.90 is relevant to be reproduced as follows:-

" 4. It appears to us that this prayer needs to be granted. Those 157 posts of Deputy Collectors are permitted to be filled-up by effecting promotions on the basis of selection on merit by the constitution of appropriate Departmental Promotion Committees, so however, that out of the said 157 posts, 57 posts are filled up by officers who are promotees from the feeder line in Group B posts.

The list of officers within the zone of consideration for the purpose of

2

1

effectuation of the promotions, however, shall ensure that no promotee to the cadre of Assistant Collectors from Group B posts will find a place in the list higher than that of an officer directly recruited who joined as Assistant Collector before such promotee.

These promotions shall be purely ad-hoc ~~and shall~~ sequel to such further or final orders that may be made in these matters. Orders of promotions shall also expressly specify that the promotions are so subject to such further or final orders."

The Apex Court had stated that the promotions should be ~~on selection on merit~~ by the DPC for the adhoc promotions to the posts of Deputy Collectors. But the promotion is subject to the other such further or final orders in the main case.

12. The respondents have interpreted the basis of selection on merit as the process involving promotion on the basis of selection procedure. The officers who are having higher bench mark will rank senior to those who are having lower bench mark. The above selection process has been done following the guidelines for DPCs as per para 6.3.1. which is enclosed to the Guidelines on Departmental Promotion Committees at Page 55 to the OA.

13. Thus, from the submission of both the sides, the point for consideration is whether the issue of the promotion order vide Office Order No.175/91 following the selection procedure for promotion to the post of Deputy

R



Collector is in accordance with the directions of the Supreme Court ~~in~~ I.A.No.6/90.

14. The extracted paragraph of the judgement of the Apex Court ~~in~~ I.A.No.6/90 indicates that the promotion is to be effected on the basis of selection on merit. Regular selection of Deputy Collectors in accordance with the Recruitment Rules is by way of selection ie, officer with higher ranking will rank junior to the officer with lower ranking maintaining inter-se seniority between the officers who are on the same bench mark.

15. The judgement of the Apex Court dated 22.12.89 does not specifically indicate that while making ad hoc promotion even to selection posts should be done by following the method of seniority-cum-fitness as indicated in the memorandum dated 30.3.88. The above view does not appear to have been ~~in~~ ^{Order} Apex Court dated 13.8.90. Hence the submission of the applicants in para 9(i) does not appear to be in order.

16. Hence when the Apex court has said that the promotion to the post of Deputy Collector should be on the basis of the selection on merit it cannot be said that the respondents have interpreted that wrongly for empanelling officers by selection process. The very direction of the Apex Court in I.A.No.6/90 means that the promotion is to be done on merit basis but not on seniority-cum-fitness basis.

17. When the selection is to be made on the basis of merit then meritorious candidate should automatically rank

R

A

senior to the less meritorious candidate. Merit can be adjudged only by comparison and not by individual performance. The meaning for the word 'merit' as per the Oxford Dictionary means excellence, worth, a thing that entitles to reward or gratitude. The above meaning will clearly indicate that the good work done in comparison with similarly placed persons. The good work done in a service matter is reflected on the grading given in the confidential report which will definitely rank senior to that of Very Good and so on. In that context only the ^{order} judgement of the Apex Court has to be viewed. When the Apex Court has stated that the promotion to the post of Deputy Collector is on the basis of selection on merit, it has to be held that the Apex Court had held that the selection should be done giving due consideration to the meritorious candidate. In that view, we do not see any reason to come to the conclusion that the Apex Court by its order above for adhoc promotion meant only on seniority-cum-fitness method.

18. It is obvious from the recruitment rules that the posts of Deputy Collectors are to be filled by selection process. If the adhoc promotion in the present case is made by method of non-selection process ie, seniority-cum-fitness method, then when the final selection is made after the disposal of the pending cases in the Apex Court then it may be possible that the number of adhoc promotees promoted as Deputy Collectors may be reverted while following the selection process. If the adhoc promotion is very limited say less than two or three, then those adhoc promotees if reverted at the final panel prepared on the basis of selection process, then there may not be much of heart.

Dr

D

burning or there may not be serious grievance raised by such reverted employees. But in this case, there are 100 direct recruits to be promoted on adhoc basis. If in the final selection, there are number of adhoc promotees are to be reverted, then it may cause not only heart burning but leave dissatisfaction in the management cadre which is detrimental in the revenue collection process. Hence it is preferable that even though it was an adhoc promotion, the eligible officers are promoted on selection basis so that there may not be any reason for reversion later when the final selection is to be made. In that view, the interpretation of the respondents of the Apex Court Order ~~judgment~~ viz, "selection-cum-merit" is to be done by following the selection may not be said to be incorrect or it may not be construed as a wrong interpretation by the Department. Hence the interpretation made by the respondents to make promotion to the post of Deputy Collector in view of the Apex Court Order on ~~judgment in~~ I.A.No.6/90 by following the selection method cannot be assailed.

(ii) The second contention of the applicants in this OA is that the number of posts to be filled on adhoc basis are 100 by direct recruits. Out of those 100 posts for promotion to the post of Deputy Collector, 18 posts have already been filled promoting the officers at Sl.Nos.1, 3 to 15, 17, 18, 28 and 57 borne in Office Order No.175/1991. The officers who are shown against the serial numbers as above were already promoted as Deputy Collectors vide orders NO.218/86 dated 8.12.1986, 107/87 dated 14.1.87, 170/87 dated 2.11.87 and 187/87 dated 26.11.87 which are enclosed to the reply affidavit filed by the



applicants. Hence the learned counsel for the applicants contends that the number to be promoted as Deputy Collector is not 100 but only to the extent of 82 as 18 officers had already been promoted by the orders referred to above. If that had been done, then the applicants herein would not have been superseded by their juniors.

19. In order to ascertain the above position from the records, we have asked for notings put up for approval for examination of the records on a regular basis after issue of the interim order of the Apex Court, by the order of this Bench dated 9.6.97.

20. The learned counsel for the respondents produced the note for DPC for promotion to the grade of Deputy Collector of Customs and Central Excise enclosed in File No.A-32012/15/90/Ad.II. The relevant portion is paragraph 3 of that note. The said paragraph is reproduced below:-

"3. The implications of the Court's order have been examined by the Board. It is proposed that the D.P.C. should first prepare a panel of officers for promotion on regular basis against 20 posts of Deputy Collector, which were filled on ad hoc basis from the combined seniority list in force at the time of ad hoc promotions during the years 1986 and 1987. The year-wise break up of regular vacancies is as under:-

1986	11	[These 22 vacancies
1987	11	[were filled on
		[ad hoc basis and
		[include 2 filled
		[by promotee
		[officers
		[recommended by
		[1985 D.P.C.

D *1*

1988-89 10
 1989-90 57
 1990-91 68

The above paragraph, in consultation with the learned counsel for the respondents, was also shown to the learned counsel for the applicants. A perusal of this paragraph leads us to believe that the earlier promotion made to the post of Deputy Collector should also be included in the 100 posts to be filled now in view of the Apex Court's order on judgement in I.A.No.6/90. Though the learned counsel for the applicants initially said, after perusing the above paragraph, he would advance his arguments in that connection, but did not say anything from him till the hearing was completed.

21. The learned counsel for the applicants submitted that the above posts filled earlier were also included in 100 so as to ensure that all the direct recruits promoted as Deputy Collectors on adhoc basis come under the directions of the Apex Court. If any deviation has been made in the final direction of the Apex Court while finally disposing of the case and if that final direction means only those promoted on adhoc basis as per the interim order, then the earlier promotee Deputy Collectors and later promotee Deputy Collectors may be put to some problem. To avoid that contingency they have included the earlier promoted direct recruits also in the ambit of filling up the 100 posts on adhoc basis. This in the opinion of the respondents ~~will~~ ^{ed} avoid any complication that ^{right have} ~~may arise~~ in future after the final disposal of the case by

R J

the Apex court.

159

22. We find a good reasoning in the arguments of the respondents in this connection. We also feel that the addition of the earlier promoted direct recruits as Deputy Collectors may not cause any problem in the ranking of the applicants as the grading remains the same and that grading will also be taken note of while preparing the final select list. Hence the contention of the applicants that the earlier promotees numbering 18 should not have been considered for adhoc promotion while issuing the Office Order No.175/91 is not a valid one and has to be rejected.

(iii) The third contention of the applicants in both the OAs is that the zone of consideration was 3x i.e., the number of Assistant Collectors to be considered for promotion to the post of Deputy Collector is three times Estt.(D) dated 24.12.80. But that was changed to the formulae of $2x + 4$ by the O.M.No.22011/1/90-Estt.(D) dated 12.10.1990 (Page 80 to the OA) and that instruction came into force with effect from 1.11.1990. As the proceedings of the DPC were concluded only by the end of 1990, the instructions in force at the time of conclusion of the DPC proceedings should have been made applicable i.e., the zone of consideration should be $2x + 4$ and not $3x$ ['x' is equivalent number of vacancies]. The promotion proceedings in the Office Order No.170/91 have not been prepared in accordance with the instructions dated 12.10.1990 and hence review is called for.

R

D

23. In the reply, the respondents have submitted that the DPC had already conducted the meeting on 20.10.1990 and decided their norms prior to 1.11.1990 i.e, the date when the revised zone of field of consideration as $2x + 4$ was decided. Hence the challenge cannot be on account of non compliance of the proper formula in arriving at the zone of consideration for considering the candidates for promotion. The respondents have rightly acted upon the instructions prevailed as on the date of constitution of the DPC by following the $3x$ formula^y. The new formula namely $2x + 4$ came into effect from 1.11.1990. Further the promotions to the post of Deputy Collector were for the years 1986 to 1990 and those vacancies for the years occurred earlier to 12.10.1990. Hence for the vacancies which had occurred earlier to 12.10.1990, the zone of formula enshrined in the O.M. dated 24.12.1980. The above appreciation is also in accordance with the principles laid down by the Apex Court in the reported case in AIR 1983 SC 852 (Y.V.Rangaiah v. J.Sreenivasa Rao) wherein it was held that, "the vacancies which occurred prior to the amended rules would be governed by the old rules and not by the amended rules".

24. The principle in fixing the zone of consideration is that the juniors in the cadre should not get an unintended benefit by promotion to the higher grade due to their grading. If the zone of consideration is not defined, then very juniors may get promoted in view of their grading in the ACRs. But at the same time, the officer to be considered should be sufficient enough to

11

ensure proper selection of the competent employees. Keeping that in view only, the formulae for the zone of consideration has been issued. In the earlier OM dated 24.12.1980, the zone of consideration was stipulated as $3x$ for the vacancies of 4 and above. As per that formulae the number of Assistant Collectors who can be considered for promotion to the posts of Deputy Collectors will work out to 300 whereas by the revised formulae as per OM dated 12.10.1990 the number of Assistant Collectors to be considered for promotion to the posts of Deputy Collectors will work out to 204. But that later formulae comes into effect only from 1.11.1990. In any case the number of vacancies in the present selection being 100, the number of candidates considered were only 154 which is much less than the number as provided for in the later formulae dated 12.10.1990. Hence in that view we do not find any irregularity even if the zone of consideration is to be fixed by the later formula as number of candidates considered was much less than the number as arrived at by $2x + 4$ formula. In view of the foregoing, we feel that this contention also merits no consideration.

(iv) The applicants herein also contend that the Office Order No.175/91 dated 23.5.91 is void and arbitrary inasmuch as no member of the Scheduled Castes or Scheduled Tribes had been made a Member of the DPC that had recommended the adhoc panel for promotion. Further the rules of reservation are not followed in preparing the select list thereby vitiating the selection process.

25. The respondents in the reply submit that no reservation ^{was} is provided in the promotions from the grade of

Br

1

Assistant Collectors to the Deputy Collectors in the Department of Personnel and Training OM No.F.22011/5/86-Estt. dated 12.3.1989 and the instructions in para 2.3.2(1) of the said instructions are fully complied with. Hence there is no reason for the applicants to state that the rules of reservation for the reserved community candidates

26. The reservation is only to the lowest rung of Class I service. The post of Deputy Collector is not the lowest rung in the class I service of the Indian Customs and Central Excise Service. For the Post of Deputy

bracket.

monthly The SCs/STs candidates who come within the number of vacancies for the select list to be drawn up should be empanelled provided such of the reserved community candidates are not considered unfit for promotion. Para 2.3.2.(1) of the OM dated 12.3.89 is very relevant in this connection. It is reproduced below:-

"In promotion by selections to posts/services within Group 'A' which carry an ultimate salary of Rs.5700/- per month in the revised scale, the Scheduled Castes/Schedule Tribes officers who are senior enough in the zone of consideration for promotion so as to be within the number of vacancies for which the select list has to be withdrawn up, would notwithstanding the prescription of 'bench-mark' be included in that list provided they are not considered unfit

27. The number of vacancies to be filled for 1986 and 1987 was seven in each year. The senior-most applicant in

both the OAs viz. V.Ramu comes in the seniority list of direct recruit Assistant Collectors at Sl.No.39. When the ~~were~~ ^{were} vacancies ~~are~~ ^{are} only 14, the question of considering any of the applicants for the year 1986 and 1987 ~~does~~ ^{did} not arise. In the panel for 1987, we note that one SC candidate has been empanelled. For the year 1988, four vacancies had to be filled up. Out of the four vacancies, there were 3 SC ~~....~~ reservation for that year was not adhered to. Similarly in the year 1989, there were four SC candidates and two ST candidates. Both the applicants in OA 19/94 were empanelled in the year 1989. The panel for 43 vacancies was prepared for 1990. There were seven SC candidates and 3 ST candidates. The applicant in OA 20/94 was empanelled in the year 1990. Thus, we find that the eligible SC/ST candidates who ~~were~~ ^{were} within the number of vacancies for which select list was prepared were included ~~if~~ ^{and} ~~were~~ ^{were} not considered unfit for promotion. Hence the rules for reservation have been fully followed. In that view, we find no reason to set-aside the select list for not following the rules of reservation.

28. The applicants complain that no reserved community candidate was included as Member of DPC and hence the selection is to be reviewed due to non-following of the extant instructions in nominating DPC Member.

29. The respondents have not given the details of the DPC formation in the reply.

30. But the idea of nominating one reserved community candidate is to ensure that rules in regard to reservations

Or

N

are followed and no injustice is done to the reserved community employees who are in the zone of consideration. From the above analysis of the panel, we find that there are enough reserved community candidates promoted as Deputy Collectors and the reservation rule has been followed.

Mere technical lapse, if any, by not nominating a reserved community Member as DPC Member should not be a reason for review of the panel especially when the panel is only ad hoc and is to be recast when the pending case in the Apex Court is finally disposed of.

process of adhoc promotion was done in accordance with the Apex Court's order on judgement in I.A.No.6/90 following the extant rules in regard to the zone of consideration, considering all the eligible candidates and following the rules of reservation. Hence, we do not see any reason to accede to

32. The next contention of the applicants is that earlier for filling up the post of Collector in the Central Excise on adhoc basis, the rule of seniority-cum-fitness was followed even though the posts of Collectors are to be filled on the basis of selection. When that non selection process was adopted for filling up the higher grade post, on adhoc basis, there is no reason to follow the principle of seniority-cum-merit for adhoc promotion to the post of Deputy Collector which is a subordinate post to Collectors. Hence in that view, the O.O.No.175/91 needs review.

33. At the time hearing, Shri R.K.Malhotra, Under Secretary, Central Board of Excise & Customs was present.

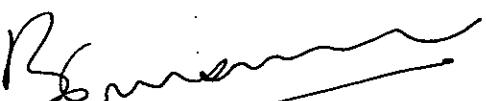
32

2

to the post

He submitted emphatically that no adhoc promotion of ~~was~~ ^{earlier} Collectors ~~were~~ ordered and hence the question of following ~~did~~ any procedure does not arise. We have asked the Department to file an affidavit to the above effect. Accordingly, Shri Malhotra has filed an affidavit dated 11 in OA No.19/94. Hence, the contention of the applicant that the adhoc promotion to the post of Collector has been done on ~~----- cannot be taken as a~~ correct position. Further, it is not necessary that the method followed in granting adhoc promotion to the higher grade post should ~~necessarily~~ be followed for the lower grade also for adhoc promotion. No such rule as contended by ~~the~~ ~~----- was produced.~~ Normally, the Department should follow the extant rules. But if certain directions ~~were~~ given by a judicial forum, as in the present case, the employees cannot question the same. In that view ~~also~~ the present contention has to be negatived.

34. In view of the above detailed analysis of the various points, both the O.A.Nos.19 and 20 of 1994 are dismissed as having no merits. No order as to costs.

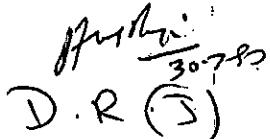

(B.S.JAI PARAMESHWAR)
MEMBER (JUDL.)

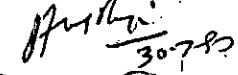

(R.RANGARAJAN)
MEMBER (ADMN.)

29.7.97

DATED:  29th July, 1997

vsn


D.R. (S)


30.7.97

Copy to:

1. The Secretary, Min. of Finance,
Dept. of Revenue, New Delhi.
2. The Chairman, Central Board of Excise and Customs,
New Delhi.
3. The Secretary, Union Public Service Commission,
New Delhi.
4. One copy to Mr.Y.Suryanarayana, Advocate,CAT,Hyderabad.
5. One copy to Mr.N.R.Devraj,Sr.CGSC,CAT,Hyderabad.
6. One copy to D.R(A),CAT,Hyderabad.
7. Copy to All the Reporters as per the list of CAT,Hyderabad.
8. One duplicate copy.

YLKR

18 copies

22/8
23/8/97

YLR

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD

THE HON'BLE SHRI R.RANGARAJAN: M(A)
AND

THE HON'BLE SHRI B.S.JAI PARAMESHWAR: M
(J)

DATED: 29/7/97

ORDER/JUDGEMENT

M.A./R.A/C.A. NO.

in
D.A. NO. 19 EL 20/94

Admitted and Interim directions
Issued.

Allowed

Disposed of with directions,

Dismissed

Dismissed as withdrawn

Dismissed for default

Ordered/Rejected.

No order as to costs.

YLR

5 Spare Copies
II Court.

