

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 712 of 2001

Jabalpur, this the 24th day of June, 2004

Hon'ble Mr. M.P. Singh, Vice Chairman
Hon'ble Mr. Madan Mohan, Judicial Member

Kanti Sing Armo, S/o Shri G.S.
Armo, aged about 42 years DOS-
L-II Central Customs & Excise
Commissionerate, Bhopal, Resident
of 219, Ashok Vihar, Nagar Nigam
Colony, Bhopal (M.P.)

APPLICANT

(By Advocate - Shri Rajendra Gupta)

VERSUS

1. Union of India,
Through the Secretary,
Ministry of Finance,
(Department of Revenue)
North Block, New-Delhi.
2. The Secretary,
Central Board of Excise & Customs,
North Block, New-Delhi.
3. The Commissioner,
Cadre Control Authority,
Central Customs & Excise
Manik Bagh, Indore (MP)
4. The Additional Commissioner,
Central Customs & Excise,
Maid Mill Hoshangabad Road,
Bhopal (M.P.)

RESPONDENTS

(By Advocate - Shri Gopi Chourasia on behalf of
Shri S.A. Dharmadhikari)

O R D E R

By Madan Mohan, Judicial Member -

By filing this OA, the applicant has sought the following main reliefs :-

"(i) the respondents may be directed to promote the applicant in the Inspector Grade and pay all arrears of amount from 1998".

2. The brief facts of the case are that the applicant belongs to Scheduled Tribe category and presently working as a DOS-L-II in the Commissioner office, Central Customs and Excise at Bhopal. After three years of satisfactory service, the applicant appeared in the departmental examination of

Inspector Grade and passed the said exam in the year 1993. The D.P.C. in the year 1998 called all the candidates who had passed the examination including the applicant and personal interview & physical fitness test was taken by the Committee. The applicant was declared passed in physical fitness test but declared failed in personal interview that is why he was not even considered for ad hoc promotion in Inspector grade and declared the list of ad hoc promotees(A-1). Against the said injustice, the applicant submitted his representations, being the last dated 4.7.2000, the same was rejected by the respondents on 18.10.2000 (A/4). The applicant should have been awarded with the Inspector grade on the seniority-cum-fitness basis but respondents acted illegally and arbitrarily in not granting the ad hoc promotion in the Inspector grade to the applicant whereas juniors have been such promotion and regularised them in the year 1999.

2.1 The Under Secretary, Govt. of India, Ministry of Finance, Deptt. of Revenue, New Delhi vide order dated 16.4.1999 has mentioned that it has been decided with the approval of Chairman C.B.S.E. that the interviews shall be conducted to weed out only undesirable/under serving candidates, until further orders or amendment of the recruitment rules. The interview shall not carry any grading on marks and the interview shall serve the purpose for weeding out only those of the candidates who have some disciplinary/vigilance cases pending or contemplated against them. Hence, this O.A. has been filed.

3. Heard the learned counsel for both the parties.

4. It is argued on behalf of the applicant that the applicant was declared successful in the physical fitness test but was declared failed in personal interview. Learned counsel for the applicant drawn our attention towards letter dated 16.4.1999 in which it is clearly mentioned that interview shall not carry any grading on marks but will serve the purpose for weeding out only those of the candidates who have some disciplinary/vigilance cases pending or contemplated against them. It is

when argued that/no disciplinary/vigilance case is pending against the applicant and he also been declared successful in the physical test and further more when the issue has been decided that interview shall carry no grading on marks and will serve the purpose of weeding out only undesirable candidates, the applicant could not have been ignored for even ad hoc promotion to the post of Inspector. Hence, the action of the respondents in not granting the applicant ad hoc promotion as Inspector is illegal, arbitrary and against the rules and regulation and deserve to be quashed.

5. In reply, learned counsel for the respondents argued that the applicant could not qualify the interview which was mandatory for appointment to the post of Inspector and has drawn out attention towards letter dated 9.5.1991 (R-2) issued by the Ministry of Finance, Deptt. of Revenue in which provision of interview is shown to be mandatory. Hence, the applicant was not eligible to be considered even for ad hoc promotion as he failed in the interview and, therefore, the order passed by the respondents is neither irregular nor illegal but the same is in conformity with the rules and regulations.

6. After hearing the learned counsel for both the parties and careful perusal of the record, we find that the applicant had admittedly passed the written examination for the post of Inspector followed by physical test but failed in the ^{personal} interview. We have perused both the documents relied upon by the applicant as well as respondents i.e. letter dated 16.4.1999 (A/5) and letter dated 9.5.1991 (Annexure R-2) both issued by the Ministry of Finance, Department of Revenue. The order dated 16.4.1999 (A/5) has been passed in continuation of letter dated 17.2.1999 (R-1) in which the order dated 9.5.1991, relied upon by the respondents, has also been discussed. Therefore the order dated 16.4.1999 will prevail according to which interview shall not carry any grading of marks but will ^{only} serve the purpose (for weeding out only those of the candidates who have some disciplinary/vigilance cases pending or contemplated inst them.

Respondents have not shown that any disciplinary/vigilance case is pending or contemplated against the applicant. Hence, we are of the considered view that the respondents have not considered this aspect while ignoring the applicant for ad hoc promotion to the post of Inspector and juniors to the applicant were given such promotion.

7. In the facts and circumstances of the case and in the light of the observations made above, we deem it proper to dispose of this O.A. directing the respondents to consider the claim of the applicant for promotion to the post of Inspector, keeping in mind the discussion made above, and take a decision by passing a speaking, detailed and reasoned order within a period of three months from the date of receipt of a copy of this order under intimation to the applicant. No costs.

Sd/—
(Madan Mohan)
Member (Judicial)

Sd/—
(M.P. Singh)
Vice Chairman

/na/