

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 596 of 1999

Jabalpur, this the 6th day of February, 2004

Hon'ble Shri M.P. Singh, Vice Chairman  
Hon'ble Shri G. Shanthappa, Judicial Member

A.K. Soni, S/o. Late Shri. Kunji  
Lal Soni, Aged 56 Years, Working as  
Inspector Central Excise, Office of  
the Assistant Commissioner, Customs  
and Central Excise Division No. 2,  
Bhopal (M.P.), R/o. House No. Type Iv/4,  
CPWD Colony, Bharatnagar, Shahpura,  
Bhopal (M.P.).

... Applicant

(By Advocate - Shri S.P. Pathak on behalf of Shri M.K.  
Verma)

V e r s u s

1. Union of India, Through  
the Secretary, Department of  
Revenue, North Block, New Delhi.
2. Secretary, Central Board of  
Excise and Customs, North Block,  
New Delhi.
3. Commissioner, Customs and Central  
Excise, Central Revenue Buildings,  
Opposite Maida Mills, Bhopal  
(M.P.).
4. A.K. Chitne-s, Aged about 40  
years, S/o. not known, Inspector  
Central Excise, Office of the  
Assistant Commissioner, Customs and  
Central Excise Division, Audit  
Branch, Bhopal (M.P.).
5. R.K. Jaiswal, Aged about 40 years,  
S/o. Not Known, to the applicant,  
Inspector Central Excise, Office  
of the Assistant Commissioner,  
Customs and Central Excise Divi-  
sion, Audit Branch, Bhopal (M.P.).

... Respondents

(By Advocate - Shri S. Akthar, on behalf of Shri B.da.Silva  
for official respondents and none for private  
respondents)

O R D E R (Oral)

By M.P. Singh, Vice Chairman -

The applicant has filed this Original Application  
and has sought for direction to extend the benefit of

special pay to the applicant for working in Audit Branch from the date from which his juniors have been granted such benefit.

2. The brief facts of the case as stated by the applicant are that the applicant is working as Inspector in Audit Branch of Central Excise. His grievance is that he has not been granted the special pay for working in Audit Branch, whereas his juniors respondents Nos. 4 and 5 are being paid the special p-ay. He has alleged that it is because of the nepotism and favouritism of the respondents that they have ignored the senior and have granted the special p-ay ~~to~~ to the persons who were much junior to the applicant. The applicant has also stated that he has enjoyed unblemished service career and in his entire career of service, no adverse remark has ever been communicated to him and no explanation or memo has been given to the applicant by his superior officers. Aggrieved by this, the applicant has filed this Original Application seeking the aforesaid reliefs.

3. The respondents in their reply have stated that as per Ministry of Finance, Department of Revenue, Central Board of Excise & Customs letter dated 8th September, 1985, it was decided that "the consideration list of Inspectors for their consideration for posting as Auditors may be prepared on the same principle, as is followed for the purpose of their promotion to the grade of Superintendent." The Inspectors who have passed the departmental examination of Inspectors grade and have completed five years of service in the grade should be considered. Keeping in view the above instructions of the Government of India, a list of Inspectors of the Commissionerate in order of their

seniority was placed before the screening committee. The committee decided that out of last three years ACRs the officer should have at least one very good report and no adverse entry. The name of the applicant was also placed before the screening committee in order of his seniority. However since the applicant did not qualify the prescribed bench mark, his name was not recommended by the screening committee for special pay in the Audit Branch. The respondents have also stated that <sup>because</sup> the applicant was not communicated any adverse remarks, it does not mean that he had an excellent record.

4. We have heard the learned counsel for the parties and perused the records carefully.

5. The learned counsel for the applicant has submitted that the applicant is senior to the private respondents Nos. 4 and 5, but he has been denied the special pay by the respondents for extraneous reasons. On the other hand, the learned counsel for the respondents submitted that the case of the applicant was placed before the screening committee but the screening committee did not recommend the name of the applicant for grant of special pay and hence he has not been granted the special pay.

6. We have also very carefully considered the rival contentions made by both the parties. We find that as per the letter dated 08.09.1985 issued by the Ministry of Finance, Department of Revenue, Central Board of Excise & Customs, it has been decided that "the consideration list of Inspectors for their consideration for posting as Auditors may be prepared on the same principle, as is followed for the purpose of their promotion to the grade of Superinten-

dent." As per the DPC guidelines, we find that a bench mark for promotion to the post of Superintendent is only 'good'. In this case, the respondents have themselves admitted that the applicant is senior to the private respondents Nos. 4 and 5 who have been granted the special pay. They have also admitted that no adverse remark has been communicated to the applicant. At the same time, they say that the screening committee has decided that the applicant should have secured 'very good' grading in one of the confidential report, which is contrary even to the DPC guidelines, which provide regular promotion to the higher post of Superintendent. In-fact, they have followed the more rigorous criteria in respect of the applicant to consider him for grant of special pay, which is contrary to the rules and the DPC guidelines. We, therefore, find that the action taken by the respondents to deny the special pay to the applicant is illegal, arbitrary and contrary to law.

7. We therefore direct the respondents to reconsider the case of the applicant for grant of special pay in the light of the above observation and in accordance with the rules from the date his juniors have been considered for the grant of special pay and if the applicant is found suitable, grant him the benefit of special pay within a period of three months from the date of receipt of copy of this order. The Original Application stands disposed of accordingly. No costs.

*G. Shanthappa*  
(G. Shanthappa)  
Judicial Member

*M.P. Singh*  
(M.P. Singh)  
Vice Chairman

"SA"

- (1) राज्यपाल
- (2) विधायक सभा
- (3) विधायक सभा
- (4) विधायक सभा

*Issued  
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13.2.04.  
6.2.04.*

*M.K. Verma  
B. Danwet*

*Rajendra  
30 दिसंबर 2004*