

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 835 of 1998

Jabalpur, this the 1st day of August, 2003

Hon'ble Mr. J.K. Kaushik, Judicial Member
Hon'ble Mr. Anand Kumar Bhatt, Administrative Member

Ku.V.Shree Damodaran
D/o Shri P.Damodaran aged 41 yrs.
Working as Inspector,
Central Excise & Customs
In the Office of Commissioner
of Central Excise & Customs
C.R. Building, Civil Lines,
Raipur (MP)

APPLICANT

(By Advocate - ~~Shri~~ B.L.Nag)

VERSUS

1. Union of India
through the Chairman
Central Board of Excise & Customs,
North Block,
New Delhi - 110011
2. The Chief Commissioner,
Central Excise & Customs (CCU)
New Central Revenue Building
Statute Circle C-Scheme
Jaipur (Rajasthan)
3. The Commissioner, Central Excise
& Customs Commissionerate
Indore-I, Manik Bagh Palace
Indore (MP)
4. The Commissioner,
Central Excise & Customs,
C.R. Building,
Raipur (MP)

RESPONDENTS

(By Advocate - Shri S.C.Sharma for the respondents)

ORDER

By J.K.Kaushik, Judicial Member -

Applicant Ku.V.Shree Damodaran has filed this
Original Application for the following reliefs:-

- "(a) the respondents may be directed to hold review DPC in respect of 32 vacancies of the recruitment year 1997-1998, in which case DPC was held twice i.e. in June 1997 and October 1997 by splitting up vacancies.
- (b) the respondents may be directed to consider the applicant by applying extended zone of consideration by 5 times the number of vacancies of the recruitment year 1997-98 for the purpose of effecting reservation for SC/ST.
- (c) the respondents may be directed to consider the claim of the applicant for promotion when she became eligible in the year 1994-95.

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- (d) the respondents may be directed to pay consequential benefits equal to the review DPC as prayed for and the arrears which became due along with interest.
- (e) the respondents may be directed to assign seniority from the date of promotion which became due at relevant time.
- (f) cost of this application.
- (g) any other relief as deemed fit by this Hon'ble Tribunal."

2. The brief facts of the case are that the applicant was appointed to the post of Inspector, Central Excise and Customs with effect from 29.5.1982 and subsequently declared permanent with effect from 10.11.1986. Her name stands at serial no.69 of the seniority list of Inspectors of Central Excise as on 1.1.1997. She has rendered about 16 years of service on the said post. She belongs to scheduled caste and the brochure on reservation for SC & ST applies to her case.

3. The further case of the applicant is that she was due to be promoted to the post of Superintendent of Central Excise & Customs, Group-B in the scale of Rs.2000-3500 against a vacancy reserved for scheduled caste, as per rules in force and she became eligible for consideration to the said post on completion of 8 years of service on 29.5.1990. The sanctioned strength of Superintendent of Central Excise of the particular unit was 205 as on 1.1.1997 and, therefore, there should have been at least 30 SC Superintendents whereas only 20 SC Superintendents were on the establishment and there was a short fall of 10 vacancies. Out of 25 SC Superintendents, 8 persons have vacated the post and persons at serial nos. 4,5,6,9 and 10 have retired. Thus, the strength of the Superintendents belonging to SC was reduced from 25 to 17. Thereafter three Inspectors were promoted as Superintendents, thereby the total strength remained only 20 who were belonging to SC as on August, 1998. The formula relating to the consideration zone has been explained and it has been submitted that the extent normal zone of consideration for SC/ST has been indicated in addition to the extended zone of

consideration. The normal zone of consideration is 1 to 3 and the extended zone of consideration is 5 times the number of vacancies. Thereafter certain rules have been reproduced. It has been also averred that a DPC was held in October, 1997 and in all there were 32 vacancies of the recruitment year 1997-98 and as per the extended zone 160 persons ought to have been under consideration so far the reserved category candidates are concerned and the applicant who was at serial no. 69 would have come within the zone of consideration and out of 32 vacancies at least 5 vacancies should have been reserved for SC. Then there is a procedure of carry forward. The Original Application has been filed on number of grounds which we shall deal subsequently in this order.

4. A detailed reply has been filed on behalf of the respondents. The facts and grounds raised in the Original Application have been controverted. It has been submitted that there were 14 vacancies existed plus anticipated till March, 1998 and two vacancies have gone to the person in whose case the review DPC was held and sealed cover was opened. Their cases were kept in sealed cover because of the pendency of the disciplinary proceedings. Thus, there were only 12 vacancies and as per the extended zone of consideration the applicant did not come within the zone of consideration. Subsequently, 10 vacancies arisen. The details of which have been given at page 5 of the reply. These were unforecasted and could not have been terms as anticipated vacancies. The DPC was held on 21.6.1997 and the case of the applicant did not fall within the extended zone of consideration.

5. A detailed rejoinder has been filed and the position as brought out in the reply has been controverted and the details of the points and vacancies have been elaborated.

6. We have heard the learned counsel of parties at considerable length and have considered the arguments, pleadings and the records of this case.

7. The learned counsel of the applicant has reiterated his pleadings and has submitted that the respondents have

no authority to bifurcate the vacancies and hold separate DPCs. If the respondents have conducted the DPC for all the vacancies together, the applicant's name could have fallen within the zone of consideration and since there were number of posts available for SC category, the applicant would have been considered and in fact this has not been considered and there has been inraction of Articles 14 and 16 of the Constitution of India. He has submitted that there were total 32 vacancies but the respondents have held the DPC only for 24 vacancies and that too in two parts first for 14 vacancies and then for 10 vacancies, during the same year. Great injustice has been done to her. However, he has submitted that subsequently the applicant has been granted ^{promotion} permission and now the question will be to antedate the date of her promotion. He has also submitted that he could not contact his client despite lot of efforts and number of times the adjournments were sought for this purpose and, therefore, it is not possible for him to procure her promotion order.

8. We have considered the rival contentions and submissions made on behalf of both the parties. As regards the contention of the learned counsel of the applicant that there was bifurcation of the vacancies, it is seen from the records that there were earlier 14 vacancies and subsequently 10 has arisen and these vacancies were of such a nature the same could not have been forecasted. Subsequently, the learned counsel of the respondents also pointed out that as far as the consideration of candidature of the applicant in the first DPC is concerned, even though the applicant did not come within the extended zone of consideration since there were only 12 vacancies to be filled in and in fact the question of any extended zone did not arise since there were number of reserved candidates available as required by law. However, this submission does not have any relevance in the present case since even if the extended zone would have been there, the applicant could not have found her birth and her name would not have come within the consideration zone.

9. From the aforesaid discussion it is clear that the applicant did not come within the consideration zone. The learned counsel of the respondents has relied on a decision of this Bench of the Tribunal in the case of Shri R.S.Meena and another Vs. Union of India & others, O.A.No.406 of 1993 decided on 17.06.1999. We find that the controversy involved in the present case squarely covers the issue and there also the applicants did not come within the consideration zone. The matter regarding conducting of first DPC and second DPC was also involved in that case. The same has been held to be meritless. We have no hesitation in following the same decision and decide this case in the similar line.

10. In view of what has been said and discussed above, the Original Application does not have any merit and the same stands dismissed with no order as to costs.

Anand Kumar Bhatt
 (Anand Kumar Bhatt)
 Administrative Member

J.K. Kaushik
 (J.K. Kaushik)
 Judicial Member.

RKV.

पृष्ठांकन सं जो/न्या.....जबलपुर, दि.....
 प्रतिलिपि अर्ज पित:-
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 उप सचिव
B.L. Nag - Adl
S.C. Sharma A
5/8/03
 उप सचिव

Issued
on 5-8-03
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