

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

Jaipur, this the 24th day of May, 2011

Original Application No.63/2008

CORAM:

HON'BLE MR. JUSTICE K.S.RATHORE, MEMBER (JUDL.)
HON'BLE MR. ANIL KUMAR, MEMBER (ADMV.)

Hari Narayan Meena
s/o Shri Prabhati Lal Meena,
r/o Plot No.221, Mahadev Nagar,
Near Ramnagariaya JDA Scheme,
Jaipur working as DOS, Central Excise,
Jaipur-I.

.. Applicant

(By Advocate,: Shri Bhanwar Puri, proxy counsel to Shri Rajendra Arora)

Versus

1. Union of India
through the Chairman,
Central Board of Excise and Customs,
Ministry of Finance,
Department of Revenue,
North Block, New Delhi.
2. Member, Personal & Vigilance,
Central Board of Excise and Customs,
Ministry of Finance, Department of Revenue,
North Block, New Delhi.
3. Commissioner,
Central Excise Commissionerate-I,
New Central Revenue Building,
Statue Circle,
'C' Scheme, Jaipur

.. Respondents

(By Advocate: Shri Mukesh Agarwal)

ORDER (ORAL)

Brief facts of the case are that the applicant was initially appointed on the post of Upper Division Clerk (UDC) on his selection by the Staff Selection Commission and accordingly he joined his services on 4.5.1992. As per the rules, next promotion from the post of UDC/Tax Assistant/Senior Tax Assistant is available to the post of Inspector and Dy. Office Superintendent (DOS). The aforesaid posts of Inspector and DOS are being considered posts in separate cadres and separate promotion avenues are provided for them. The Central Govt. is abolishing the posts of ministerial cadre and the posts of executive cadre are being increased/upgraded. The aforesaid post of Inspector and DOS fall in the purview of executive and Ministerial cadres respectively. Due to the aforesaid policy decision, there is very low scope for further promotion from the post of DOS whereas possibility of promotion from the post of Inspector is very bright.

The applicant was called for interview vide order dated 12.3.98 for promotion to the post of Inspector but he was not selected. Later on DPC was convened for promotion to the post of Inspector for the financial year 1997-98 and 1998-99 but the applicant was not promoted to the post of Inspector. Meanwhile, the applicant was promoted to the post of DOS vide order dated 28.9.98. He joined the post of DOS. After joining the post of DOS, the



applicant applied for allowing him to forego promotion/get reversion back to the post of the post i.e. TA now Senior TA vide his representation dated 15.3.2000 and the same was rejected vide order dated 31.3.2000. Thereafter the applicant further submitted representation dated 10.2.2004 through proper channel to the Central Board of Customs and Excise (CBEC), New Delhi praying to include the post of DOS in the list of feeder post for promotion/selection to the post of Inspector. His representation was rejected by the CBEC vide order dated 29.6.2004.

Feeling aggrieved by the decision dated 5.5.2004 (Ann.A/7) the applicant filed OA No.20/2005. The Tribunal vide its order dated 16.7.2007 directed the respondents to decide representation of the applicant dated 25.11.2005 within a period of three months from the date of receipt of copy of the order. Representation of the applicant has been considered and the same was rejected vide order dated 17.8.2007 (Ann.A/1) and now the present OA has been preferred seeking writ, order or direction to consider representation dated 25.11.2005 and quash and set aside the order Ann.A/1 and direct the respondents to consider request of the applicant for his reversion to the post of Senior Tax Assistant.

2. The submissions so made on behalf of the applicant have strongly been controverted by the respondents. The learned counsel appearing for the respondents referred to Ann.R/2 dated 13.6.1988 whereby clarification regarding policy to be followed where a person after getting promotion to a higher grade seeking reversion has been given and as per this clarification after



considering the matter in consultation with the Department of Personnel and Training (DOPT) when the individuals have already accepted the promotion their reversion to the lower post is not in order as it would create administrative problems in filling up the posts. The DOPT therefore advised that reversion of the persons working as Dy. Office Superintendent Le-II to UDCs simply for the purpose of considering them for promotion to other posts is not in order. Since the applicant has accepted the promotion and joined the post, as such, his case of reversion cannot be considered in view of the clarification dated 13.6.1988 (Ann.R/2). The representation earlier submitted by the applicant on 17.8.2005 for seeking reversion from the grade of DOS L-II and promotion to the post of Inspector has been rejected in terms Boards instruction dated 13.6.88 vide order order dated 29.8.2005. Further, representation filed by the applicant on 25.11.2005 has been considered thoroughly in view of the direction issued by this Tribunal in OA No.20/2005 and the same has been rejected.

3. Similar controversy was before the CAT- Mumbai Bench in the case of Kalpana Agnihotri (Mrs.) vs. Union of India and others, reported in 302 Swamy's CL Digest 1997/2 wherein the Mumbai bench held that an employee after accepting promotion and confirmed in the grade cannot opt for revision. The Apex Court in the case of Government of T.N. and anr. vs. S.Arumughem and Ors. reported in 1998 SCC (L&S) 493 held that Government has right to frame a policy to ensure efficiency and proper administration and to provide suitable channels of promotion to officers working in



different departments and offices and same view has been taken by the CAT-Cuttack Bench vide judgment dated 12.8.1994 in OA No.55/AN of 1993, Mohan Lal vs. UOI and Ors. reported at 418. Swamy's CL Digest 1194/2.

4. The applicant also preferred OA No.214/2001 and the same was dismissed vide order dated 22.9.2004 on the ground of delay observing that cause of action has accrued in favour of the applicant in the year 1998, as such, he should have filed OA within the time prescribed under Section 21 of the Administrative Tribunals Act, 1985. The applicant has not given any reason as to why he waited till 20.6.2000 when representation regarding so called irregularity in the selection made for the Inspector pursuant to DPC/Review DPC held on 12.3.1998 and 6.8.1998 respectively was made for the first time. As such, the OA was dismissed.

5. The applicant since beginning time and again preferring representation and on account of rejection of representation filed OA No.214/2001 and thereafter OA No.20/2005 and this is third round of litigation, for the same cause of action the applicant also preferred the present OA. As held by various co-ordinate benches of this Tribunal since the applicant has been promoted at the level of DOS-II and availed the promotion on the post of DOS-II, in view of the settled proposition of law, as discussed hereinabove, now his request of reversion at such a belated stage cannot be accepted. OA No.214/2001 preferred by the applicant was dismissed on 22.9.2004 and the present OA has been preferred in the year 2008 after a lapse of about 4 years, as such, we are not inclined to



entertain such OA not only on the ground of delay and latches but also on the ground of merit as the representation of the applicant was thoroughly considered as directed by this Tribunal and speaking order has been passed.

6. In view of this settled position of law at this belated stage, request of reversion cannot be accepted. Consequently, the OA fails and is hereby dismissed being devoid of merit. No costs.

Anil Kumar

(ANIL KUMAR)
Admv. Member

K.S.Rathore

(JUSTICE K.S.RATHORE)
Judl. Member

R/