

**Central Administrative Tribunal
Principal Bench, New Delhi.**

**CP-390/2015 in
OA-909/2011**

Reserved on : 06.04.2016.

Pronounced on : 21.04.2016.

**Hon'ble Mr. V. Ajay Kumar, Member (J)
Hon'ble Mr. Shekhar Agarwal, Member (A)**

Sh. Rishi Mohan Yadav,
S/o late Sh. Shri Kishna Singh,
Aged about 58 years,
R/o 78, Mahadev Nagar,
Jaipur-302021 (Rajasthan).

.... Petitioner

(through Dr. Ashwani Bhardwaj, Advocate)

Versus

1. Sh. Shaktikanta Das,
Secretary,
Ministry of Finance,
Union of India,
Department of Revenue,
North Block, New Delhi.
2. Sh. Kaushal Srivastava,
Chairman, Central Board of Excise and Customs,
Ministry of Finance, Department of Revenue,
Government of India,
North Block, New Delhi. Respondents

(through Sh. D.S. Mahendru, Advocate)

O R D E R

Mr. Shekhar Agarwal, Member (A)

This Contempt Petition has been filed by applicant No. 2 of OA-909/2011 for alleged non-compliance of our order dated 07.11.2014, the operative part of which reads as follows:-

"2. In view of the aforesaid submission of the applicant's counsel, we have directed the respondents counsel to take instructions from the respondents to let us know what further action has been taken by them on the aforesaid order of the Jodhpur Bench. Today, when the matter was

taken up for consideration, learned counsel for the respondents has submitted that the respondents have accepted the aforesaid order of the Jodhpur bench. However, learned counsel for the applicants has submitted that the respondents have only considered the last part of the said order wherein the Tribunal has dismissed the OA but the observation made in para 9 of the same has not been considered by them.

3. In view of the above position, we dispose of this OA in the same line as in the aforesaid order passed by the Jodhpur Bench. However, we direct the respondents to take appropriate action and pass orders in a time bound manner but in any case within a period of two months from the date of receipt of a copy of this order under intimation to the applicants."

2. In compliance thereof, the respondents have passed an order dated 24.02.2015 in which they have stated that a DPC was held on 29.09.2014 for making regular promotions to the grade of Assistant Commissioner for the vacancy years 1997-98 to 2001-02 in UPSC in which all the relevant DoP&T instructions on reservation were followed. In the said DPC, the last general candidate promoted to the grade of Assistant Commissioner from Superintendent (Central Excise) stream was Sh. N.K. Bhattacharya, who figures at Sl.No. 867 in the All India Seniority list of Superintendents for the period 01.01.1986 to 31.12.1992. They have further stated that the applicant No.1 (Kamal Kishore Jain) in the OA figures at Sl. No. 2564 and applicant No.2 (Rishi Mohan Yadav) in the OA, who has filed the present Contempt Petition, figures at Sl.No. 2465 in the same seniority list. Both applicants have not been promoted so far and shall be considered for promotion in their turn. On our directions, an additional affidavit was filed by the respondents on 16.03.2016 in which they have stated that in the DPC held on 26th-28th November, 2002, the following vacancies in the grade of Assistant Commissioner (Customs & Excise) were reported:-

| Category | UR | SC | ST | Total |
|--------------------------|-----|----|----|-------|
| Supdt. of Central Excise | 289 | 56 | 28 | 373 |

| | | | | |
|--------------------------|------------|-----------|-----------|------------|
| Supdt. Of Customs (Prev) | 071 | 14 | 07 | 092 |
| Customs Appraisers | 105 | 20 | 10 | 135 |
| Total | 465 | 90 | 45 | 600 |

Accordingly, in respect of officers belonging to Superintendent of Central Excise as against 373 vacancies, 224 officers belonging to general category, 116 officers belonging to SC category and 31 officers belonging to ST category (total 371) were promoted. Thus, even though the number of officers belonging to reserved category appears to have been more than their share of reserved vacancies, factually this position was not correct as the reserved category officers, who appear to have been promoted apparently in excess of the quota were actually promoted on their own merit. This was in accordance with DoP&T O.M. No. 36028/17/2001-Estt.(Res) dated 11.07.2002.

3. While the applicant's counsel had argued that the respondents had not fully complied with this Tribunal's direction inasmuch as they had again wrongly calculated the vacancies in the reserved category, we are satisfied that with the passing of the order dated 24.02.2015, orders of this Tribunal have been substantially complied with. Therefore, no contempt subsists in this case and accordingly this Contempt Petition is closed. Notices issued to the alleged contemnors are discharged. The applicant shall, however, be at liberty to challenge the orders of the respondents now passed in accordance with law, if so advised.

(Shekhar Agarwal)
Member (A)

(V. Ajay Kumar)
Member (J)

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