

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

OA 926/2012

Reserved on: 28.03.2017
Pronounced on: 3.04.2017

Hon'ble Mr. P.K. Basu, Member (A)
Hon'ble Dr. Brahm Avtar Agrawal, Member (J)

1. L.L. Singhvi
S/o Late Shri Roshanlal Singhvi
R/o Type III/04,
Central Excise Colony
Opp. Delhi College,
Indore (M.P.)

2. K.D. Venkatraman
S/o Late Shri Deoraj,
R/o 10, Regency Priyadarshan
Near Khajrana Churah, Ring Road
Indore (M.P.)

... Applicants

(Through Ms. Jasvinder Kaur, Advocate)

Versus

1. Union of India through
The Revenue Secretary,
Department of Revenue
Ministry of Finance,
Government of India
North Block, New Delhi
2. Central Board of Excise & Customs
Through its Chairman
Ministry of Finance,
Department of Revenue
North Block, New Delhi
3. The Chief Commissioner Bhopal
Central Excise Zone, M.P. & Chhatisgarh
Central Revenue Building,
Opp. Maida Mill, Husangabad Road
Bhopal (Madhya Pradesh)
4. The Commission Indore,
Customs & Central Excise
Manik Bagh Palace

Indore, Madhya Pradesh

5. R.G. Thool
6. Kripanand Bharti
7. P.H. Madne
8. R.B. Gedam
9. K.J. Waghmare
10. A.S. Wasnik
11. A.J. Bhave
12. M.M. Mandhe
13. P.T. Padole
14. Jasram Kindo
15. P.P. Kujur
16. C.R. Gaur
17. A.Y. Kadav
18. Gangadhar Mazi
19. Sanjay P. Bais
20. H.S. Parakhade
21. V.G. Pawar
22. T.N. Nipane
23. N.C. Verma
24. Sunil Kaushal
25. J.C. Solanki
26. Vinod Kumar
27. Dharmanand Bhotemange
28. Kishore Kumar
29. Hrishikesh Deep
30. Govind Ram Malviya

31. Sanjay Thool
32. Premsha Jharia
33. A.M. Kawle
34. S.E. Mate
35. B.N. Dongre
36. Anil Pandole
37. Sudesh Bagde
38. Ajay Bhatkar
39. B.B. Sudame
40. Mohanlal Ubnare
41. Anil Goswami
42. U.S. Hadke ... Respondents

(The respondents no.5 to 42 be served through Respondent No.3)

(Through Shri R.N. Singh and Shri Kundan Kr. Lal, Advocates)

ORDER

Mr. P.K. Basu, Member (A)

The applicants are Superintendents in the Department of Customs and Central Excise. The post of Superintendent is promotional post for Inspectors in the Department. In the year 2001-2002, the Central Board of Excise and Customs (CBEC) decided to restructure its department. As a result, several posts of Inspector got abolished and Superintendents posts got added. The respondents adopted the reservation policy and appointed some SC/ST candidates in the additional posts created. In this process, the SC/ST category candidates appointed by promotion

on their own merit and not owing to reservation or relaxation were not to be adjusted against the reserved points but against unreserved points, creating further vacancies in the SC/ST quota to which other Inspectors were promoted. The matter was challenged before the Chandigarh Bench as well as Patna Bench of the Tribunal, where it was held that reservation in favour of SC/ST is not applicable in the upgradation/restructuring scheme and the respondents were directed to consider the promotions of the applicants therein for those 134 posts of Superintendent Group B which are covered by restructuring scheme without applying reservation roster for those posts, from due date with all consequential benefits within a period of three months from the date of receipt of a copy of this order.

2. It is stated that Ministry of Personnel vide letter dated 25.10.2004 also advised not to apply reservation while filling the posts upgraded on account of restructuring.

3. In the meantime, the Hon'ble Supreme Court vide its judgment dated 29.07.2008, **Union of India Vs. Pushpa Rani and others** along with other connected matters, held that policy of reservation can be applied at the stage of giving effect to cadre restructuring exercise.

4. The order of the Patna Bench in OA 36/2003 dated 6.02.2007 was challenged by the government before the Hon'ble High Court of Patna, which matter has since been transferred to the Hon'ble Apex Court for uniform decision. The respondents' counsel, therefore, argued that since the issue is not free from

doubt and is also pending before the Hon'ble Apex Court, the respondents were right in keeping the representations pending.

5. In the reply filed by respondent no.25, similar argument has been put forth stating that the matter being sub judice, the present OA deserves sine die adjournment with liberty to applicants to revive the same upon disposal of the case by the Hon'ble Apex Court.

6. In his reply, private respondent no.6 has also taken a similar stand.

7. Private respondents number 8, 9, 10, 11 and 16 in their replies have also taken a stand that the contention raised by the applicants stands already decided by the Hon'ble Apex Court in Pushpa Rani (supra). It is submitted that the parameters of the aforesaid judgment of the Hon'ble Apex Court squarely apply to the present O.A.

8. We have heard the learned counsel for the parties, gone through the pleadings available on record and perused the judgments cited.

9. Clearly, the subject matter of dispute is now before the Hon'ble Apex Court for adjudication on whether reservation will apply or not in restructuring cases, in the SLP filed by the respondents. We, therefore, adjourn this OA sine-die with liberty to all sides to approach this Tribunal again after the issue

is decided by the Hon'ble Supreme Court, if so advised. No costs.

(Dr. Brahm Avtar Agrawal)
Member (J)

(P.K. Basu)
Member (A)

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