

CENTRAL ADMINISTRATIVE TRIBUNAL

CUTTACK BENCH, CUTTACK

O. A. No. 260/00029 OF 2017

Cuttack, this the 15th day of March, 2017

CORAM

HON'BLE MR. R. C. MISRA, MEMBER (A)

.....

Roushan Kumar Yadav, aged about 36 years, S/o Arjun Prasad Yadav At present working as Inspector, Chief Commissioner Office, Review Section, Bhubaneswar.

...Applicants

(By the Advocate-M/s. R. N. Parija, S. Behera, S. P. Nayak)

-VERSUS-

Union of India Represented through

1. Secretary, Ministry of Finance, Department of revenue, North Block, New Delhi.
2. Chairman, Central Board of Excise of Customs, Ministry Of Finance(Department of revenue), New Delhi-110001
3. Chief Commissioner, Central Excise, Customs & Service Tax, Bhubaneswar Zone, Central Revenue Building, Bhubaneswar-751007.

...Respondents

By the Advocate- (Mr. M. R. Mohanty)

ORDER(Oral)

R.C. MISRA, MEMBER(A):

Heard Mr. R.N. Parija, Ld. Counsel appearing for the applicant and Mr. M.R. Mohanty, Ld. ACGSC appearing for the Respondents on whom a copy of this O.A. has already been served and perused the materials placed on record.

2. Mr. Parija submitted that the grievance of the applicant is mainly to the fact that the Department has not considered his promotion to the grade of Superintendent, Central Excise on the basis of the circular of the DOP&T dated 25.03.1996 (Annexure-A/5) in which it has been clarified that "Where juniors who have completed their qualifying/eligibility service are being considered for promotion, their seniors would also be considered provided they are not short of the requisite qualifying/eligibility service by more than half of such qualifying/eligibility service or two years, whichever is less, and have successfully completed probation period for promotion to the next higher grade along with their juniors who have already completed such qualifying/eligibility service".

3. In the present case, the grievance of the applicant is that in the order of promotion to the rank of Superintendent, Central Excise dated 01.04.2016 (Annexure-A/4) except serial No.1 viz. Ajay Kumar Mohanty, all other officers are junior to him in the gradation list of Inspector. Therefore, in the present case, the applicant's case should be considered for promotion based upon the guidelines issued by the DOP&T as mentioned to above. It has been perused from the record that the applicant made a representation dated 14.12.2016 to the Chief Commissioner, Central Excise, Customs & Service Tax, Bhubaneswar Zone (Respondent No.3). In the said representation he has specifically mentioned that he has completed the probation period and also completed 06 years 07 months of service as Inspector which satisfies the condition "not short of 08 years by 02 years" or in other words the service completed by him is far more than the mandated 06 years as per the said DOP&T O.M. dated 25.03.1996. He has also quoted the case of "Pankaj Nayan case" in which the Principal Bench of the Tribunal has granted relaxation of two years for promotion to the grade of superintendent of Central Excise as their juniors having completed 08 years of service, were given promotion. It is brought to my notice by the Ld. Counsel for the applicant that till date the Respondent No.3 has not disposed of the representation and the said representation is pending at his level.

4. Therefore, it is required that the Department should first take a decision in this regard by applying the instructions issued by the DOP&T vide O.M. dated 25.03.1996 in the matter.

5. Since the matter is pending with Respondent No.3, therefore, at this stage, without going into the merit of the matter, I dispose of this O.A. by directing Respondent No.3 to consider and dispose of the representation of the

applicant dated 14.12.2016 if it is pending at his level and communicate the result thereof to the applicant by way of a well-reasoned order within a period of 60 (sixty) days of receipt of copy of this order.

6. With the aforesaid observation and direction, this O.A. is disposed of at the stage of admission itself. No costs.

7. On the prayer made by Mr. R.N. Parija, Ld. Counsel appearing for the applicant, copy of this order along with paper book be communicated to the Respondent No.3 by Speed Post at the cost of the applicant, for which Mr. Parija undertakes to file the postal requisites by 20.03.2017.

**(R.C.MISRA)
MEMBER(A)**

K.B.