



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH.

O. A. No. 350/01 S 9 S of 2016.

Ms. Pampa Ray, daughter of late Abani
Bhusan Ray, aged about 49 years,
working as Income Tax Officer, Ward-36
(3), Kolkata, residing at 11, Kailash
Pandit Lane, Kolkata- 700 053.

...Applicant.

-Vs-

1. Union of India through the Secretary to
the Govt. of India, Ministry of Finance,
Department of Revenue, North Block,
New Delhi- 110 001.
2. The Chairman, Central Board of Direct
Taxes, Government of India, Ministry of
Finance, Department of Revenue, North
Block, New Delhi- 110 001.
3. The Principal Chief Commissioner of
Income Tax, West Bengal & Sikkim,
Aayakar Bhawan, P-7, Chowringhee
Square, Kolkata- 700 069.

...Respondents.

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No. O.A. 350/01595/2016

Date of order: 24.4.2017

Present : Hon'ble Mr. A.K. Patnaik, Judicial Member
Hon'ble Ms. Jaya Das Gupta, Administrative Member

For the Applicant : Mr. S.K. Dutta, Counsel

For the Respondents : Mr. B.P. Manna, Counsel

ORDER (Oral)

Per A.K. Patnaik, Judicial Member

Heard Mr. S.K. Dutta, Ld. Counsel appearing for the applicant and Mr. B.P. Manna, Ld. Counsel appearing for the respondents.

2. This OA has been filed by Ms. Pampa Ray, who is working as Income Tax Officer, Ward-36 (3), Kolkata, under Section 19 of the Administrative Tribunals Act, 1985 challenging acts or omission on the part of the respondent authorities in not considering her representations for posting on promotion in Kolkata, acts and omissions on the part of the respondent authorities in granting promotion to the post of Assistant Commissioner of Income Tax to the Income Tax Officers, who are erstwhile junior to her as also granting them posting in West Bengal vide order dated 10.9.2014 without considering her promotion to the post of Assistant Commissioner of Income Tax with her posting in West Bengal although other lady officers who have been posted in the same station on promotion as Assistant Commissioner of Income Tax where they were working as Income Tax Officer i.e. at the Home station vide order dated 25.4.2013 as well as vide order dated 1.5.2013 and also Order No. 83 of 2013 dated 13.5.2013 posting her to CCA, Tamilnadu on promotion as Assistant Commissioner of Income Tax instead of considering her request for posting in West Bengal/Kolkata. This O.A. has been filed praying for the following reliefs:

"a) An order holding that non-consideration of the representations of the applicant for her promotion to the post of ACIT by posting her in

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Kolkata/West Bengal (CCA) instead of Chennai is totally arbitrary, discriminatory and unlawful.

- b) An order directing the respondents to consider the case of the applicant and to grant her promotion to the post of Assistant Commissioner of Income Tax with posting in Kolkata/West Bengal (CCA) with effect from the date when she was granted such promotion with all consequential benefits.
- c) An order directing the respondents to produce/cause production of all relevant records.
- d) Any other order or further order/orders as to this Hon'ble Tribunal may seem fit and proper."

3. The facts in a nut shell are that the applicant joined the Income Tax Department as a Direct Recruit Inspector of Income Tax in the year 1992 and thereafter on qualifying departmental examinations she got promoted to the post of ITO in the year 2001 and in the year 2013 she having come within the zone of consideration for promotion to the post of/Grade of ACIT was considered for the same and despite filing prior representations she was given posting in Chennai instead of Kolkata / West Bengal (CCA) for which she intended to forgo her promotion. She sought certain clarifications from the respondent authorities with a request for posting her in Kolkata on her promotion as ACIT but without considering her representations she is being shown as ACIT with a place of posting in Chennai against which also she has made a representation but till date she has not received any response from the authorities whereas other lady officers have been favoured with posting at the same station including her erstwhile juniors.

4. Mr. B.P. Manna, Ld. Counsel for respondents opposed the maintainability of this O.A. by stating that the applicant has been transferred only after she has exercised her option. However, Mr. S.K. Dutta, Ld. Counsel submitted that the said option was subsequently withdrawn.

5. Mr. Manna submitted that after receipt of a copy of this Original Application he has also drafted the reply to the same, which is ready for filing.

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6. On being questioned regarding applicability of Section 20 of the Administrative Tribunal Act, 1985, Mr. Dutta submits that the applicant has already preferred a representation on 28.9.2015 followed by another representation dated 14.6.2016. Mr. Dutta further submits that similarly situated officers were accommodated in the same region whereas the applicant has been posted to a different region far away from the region in which she is working.

7. On going through the representation we do not find any name appearing in the said representation which goes on to substantiate the claim of the applicant that similarly situated officers who were granted promotion from ITO to ACIT were retained in the same region in which they were working.

8. Therefore, while disposing of this O.A., without entering into the merits of the matter, we give liberty to the applicant to make a representation pin pointing the names of similarly situated officers, who were retained in the same region after getting promotion to the post of ACIT, and submit the same to the respondent No. 2 within a period of 2 weeks (through proper channel) from the date of receipt of a copy of this order and in case any such representation is preferred by the applicant within the aforesaid period then the respondent No. 2 is free to decide the matter as per the rules and regulations governing the field as well as instances (if any) given by the applicant in the said representation. The applicant is also at liberty to annex copy of this order along with the representation.

9. We make it clear that we have not gone into the merits of the matter and all points are kept open for the respondent No. 2 to consider and dispose of the same as per the rules and regulations in force and communicate the result thereof within a period of two months from the date

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of receipt of such representation.

10. With the aforesaid observation and direction, the O.A. is disposed of.

(Jaya Das Gupta)
Administrative Member

(A.K. Patnaik)
Judicial Member

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