

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH

REVIEW APPLICATION NO.170/00020/2017

IN

ORIGINAL APPLICATION NO.170/00606/2015

DATED THIS THE 03<sup>RD</sup> DAY OF OCTOBER, 2018

**HON'BLE DR.K.B.SURESH, MEMBER (J)**

**HON'BLE SHRI DINESH SHARMA, MEMBER (A)**

1. Union of India,

By Secretary,

Ministry of Finance,

Department of Revenue,

Dak Bhavan, North Block,

New Delhi – 110 011.

2. The Chief Commissioner of Central Excise,

Bengaluru Zone,

Central Revenue Building,

P B No. 5400, Queens Road,

Bengaluru – 560 001

3. The Assistant Chief Accounts Officer,  
Office of the Commissioner of Customs,  
Bengaluru City, P B No. 5400,  
Annex II 'D' Block,  
C R Building, Queens Road,  
Bengaluru – 560 001

.....Applicants in RA/Respondents in OA

(By Shri B. Vishnu Bhat, Senior Panel Counsel)

Vs.

M. Vishwanatha Shastry,  
S/o (late) M Kamalanabhan,  
Aged about 52 years,  
Working as Superintendent of Customs (Tech),  
Office of the Assistant Commissioner of Customs,  
Customs Division No. 29/2,  
Basaveswara Building,  
Crescent Road, Bengaluru – 560 001  
Resident at No. 110, 'Shivani'  
Anugraha Layout,  
Near Presidency School,  
Belekhahalli B G Road,  
Bengaluru – 560 001

....Respondent in RA/Applicant in OA

(By Advocate Shri A.R. Holla)

O R D E R (ORAL)

(HON'BLE DR. K.B. SURESH, MEMBER (J))

Heard. This RA is for a very small reason. The original applicant was regularly promoted in 2002 and has continuously worked for 4 years to enable him for the next chance of enhancement but, as some reservation matter has not been properly considered while effecting the promotion, a review DPC was held in 2003 and his promotion was therefore postponed to 2003. We had queried the learned counsel to find out whether the review DPC had been held for the juncture of the original applicant meaning thereby that whether because of any moral turpitude or any infraction on the part of the original applicant that a review DPC had to be held. Apparently it is not so. It is for a technical reason. Therefore as rightly or wrongly a regular DPC was held and the original applicant was regularly promoted, he acquires a legitimate expectation to have his promotion antedated as 2002 and not 2003. When a review DPC was also held, his promotion was upheld. Since his promotion was upheld, the effect of it will date back to the original promotion date in 2002 and not 2003. It is declared.

2. The RA is therefore without merit. It is dismissed. No order as to costs.

(DINESH SHARMA)

(DR.K.B.SURESH)

MEMBER (A)

MEMBER (J)

/ksk/

**Annexures referred to by the applicants in RA No. 170/00020/2017**

Annexure RA1 Copy of the DOPT OM dated 11.07.2002

Annexure RA2 Copy of the Establishment Order No. 39/2003 dated 27.03.2003

Annexure RA3 Copy of the OM dated 02.07.1997

Annexure RA4 Copy of the Establishment Order No. 128/2003

Annexure RA5 Copy of the Pay Fixation Order dated 14/18.05.2004

Annexure RA6 Copy of the CBEC Circular dated 16.09.2009

Annexure RA7 Copy of the Pay Fixation Order dated 25.11.2003

Annexure RA8 Copy of the revised statement of fixation of pay dated 27.09.2010

Annexure RA9 Copy of the order in O.A. No. 606/2015 dated 25.07.2016

**Annexures with reply statement**

Nil

\* \* \* \* \*