

**CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH, CUTTACK,**

**ORDER SHEET**

COURT NO. : 1

06/03/2019

O.A./260/894/2013

M.A./260/112/2019

SHANKAR PATRO

-V/S-

CENTRAL EXCISE & CUSTOMS

ITEM NO:42

FOR APPLICANTS(S) Adv. : Mr. D.K.Mohanty

FOR RESPONDENTS(S) Adv.: Mr. P. R. J. Dash

| Notes of The Registry | Order of The Tribunal   |
|-----------------------|---|
|                       | <p>Heard Learned Counsel for the applicant and Learned Counsel for the respondents.</p> <p>Ld. Counsel for the Applicant submitted that the applicant has requested for benefit of upgradation/promotion w.e.f. 23.09.1996 when other similarly situated employees were promoted after upgradation on the posts. Respondents have denied the promotion on the ground that the applicant had come his own request on transfer to Bhubaneswar on 07.08.1989 as per ICT Rules since he was placed at the bottom of seniority list, the seniority has not been counted from his date of initial appointment in 1983. Although, the applicant was promoted to superintendent grade from 2007, he is entitled for antedating the promotion to the date his juniors were promoted. In the meantime, applicant has retired in 2016. Ld. Counsel for the applicant further pointed out that he has filed MA 112/19 in which it was stated that the respondents issued a circular dated 03.08.2017 (copy of which is enclosed to the MA) in which it has been decided by Govt. of India that the judgment of CAT Principal Bench/Chandigarh Bench which has been upheld by Hon'ble Apex Court should be implemented for the petitioners as well as non-petitioners. (vide para 4 of the letter)</p> <p>Ld. Counsel for the respondents submitted that the applicant is not entitled to seniority from the date of his initial appointment as explained in the counter of Para-4 in which the past service will not be considered for promotion on the purpose of seniority. On that ground his case was not considered earlier.</p> <p>In view of the above submissions and taking into account the fact that the issue of anomaly is settled with the decision of Principal Bench and Chandigarh Bench of CAT and the respondents vide circular dated 03.08.2017 have decided to implement the decision taken in OA No. 651/1997 dated 26.08.1997 of</p> |

Principal Bench and in OA No. 338/12 dated 03.08.2012 of Chandigarh Bench in respect of petitioners as well as non-petitioners who are similarly placed, and the applicant. has submitted the representation dated 17.12.2018 (Annexure-M/1) to the MA, which is pending, the OA is disposed of at this stage with the direction the Respondent No.3/competent authority to consider the representation dated 17.12.2018 filed by the applicant and dispose of the same in the light of the circular dated 03.08.2017 of the Ministry of Finance by passing a speaking and reasoned order, copy of which be communicated to the applicant within two months from the date of receipt of the above representation pending final decision on the representation .

It is made clear that we have not expressed any opinion on the merit of this case while passing this order.

The O.A. is disposed of accordingly . No costs.

Free copy of this order be made available to Ld. Counsels for both the sides.

( SWARUP KUMAR MISHRA)  
MEMBER (J)

( GOKUL CHANDRA PATI)  
MEMBER (A)

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