

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

**OA-2598/2016
MA -138/2019**

New Delhi this the 18th day of March, 2019

HON'BLE MS. NITA CHOWDHURY, MEMBER (A)
HON'BLE MR. S.N. TERDAL, MEMBER (J)

Abhishek Kumar, Aged-35 years
S/o –Bishwanath Singh
R/o-Plot No.41
Pratap Enclave, Mohan Garden
Gurdwara road, Uttam Nagar,
Delhi-110 059.

.... Applicant

(By Advocate: Ms. Kanika Baweja)

Versus

1. Union of India
Through its Secretary
Ministry of Finance
Department of Revenue
North Block,
New Delhi.
2. The Chief Commissioner
Central Excise, Delhi Zone
C.R. Building, I.P. Estate,
New Delhi-110 109.
3. The Chief Commissioner
Central Excise & Customs
Pune Zone
3rd Floor ICE House 41/A
Sassoon Road, Pune-411 001.

.... Respondents

(By Advocates: Mr.Vidya Sagar for Mr.H.K.Gangwani)

ORDER (ORAL)

Ms. Nita Chowdhury, Member (A):-

This Original Application (OA) has been filed by the applicant, seeking the following reliefs:-

"A. (a) To revoke the order no. 06/CCC/(CON)/PZ/2014 dated 04.02.2014 issued by the Respondent No.3

(b) Direct the Respondent No.2 to issue a fresh Inter Commissionerate Transfer Order thereby transferring the Applicant to the post of Senior Tax Assistant and counting the time period of promotion from original date i.e. 21.03.2013 and subsequently grant promotion to the post of Inspector i.e. on 01.04.2015 along with grant of differential wages and benefits.

B. Further in case the reversion order holds merit following reliefs may be given to the applicant:-

(a) Even if the ICT cannot be considered in promotional post the debarment clause, which was wrongly interpreted by the Respondent No.3 may be removed.

(b) Direct the respondent No.2 to promote the Applicant in the grade of Senior Tax Assistant from 01.04.2014 and subsequently grant promotion to the post of Inspector as soon as it becomes due i.e. by 01.04.2016 along with grant of differential wages and benefits.

(c) To pass such other order/s as this Hon'ble Tribunal may deem just and necessary.

(d) To award the costs of the case."

2. The brief facts of the case are in the year 2013, after having been promoted to the post of Sr. Tax Assistant, the applicant sought an Inter-Commissionerate Transfer (ICT) from Pune Central Excise Zone to Delhi

Central Excise Zone. The said transfer was initially denied by Delhi Zone giving reason that the post of Senior Tax Assistant would be filled by 100% promotion of feeder cadre i.e. Tax assistant. Due to pressing family reasons, the applicant had no option but to accept the ICT by being reverted to the post of Tax Assistant. Thereafter, in the year 2014 the applicant was transferred to Delhi Zone to the post of Tax Assistant. On issuance of the order of reversion from the post of Senior Tax Assistant to Tax assistant, the Pune Zone mentioned that the Applicant would be debarred for further promotion for a period of one year. It was only when the Applicant received the letter that he came to know of this arbitrary and unjust clause being mentioned in the order without giving any reasons for the same. On enquiring, the Applicant was told that the said clause was added based on the DOPT's instructions dated 01.10.1981 wherein it is stated that in case any officer refuses promotion, no fresh promotion would be offered to the officer for a period of one year. As such, the Applicant had been debarred from promotion to the grade of Senior Tax Assistant for one year. It is submitted that the Applicant has been treated unfairly by the Department as in previous years, the Delhi Zone accepted ICT for the post of Senior Tax Assistant. The Applicant had to accept reversion of his post to Tax Assistant in order to seek transfer to Delhi zone due to pressing reasons. It is the contention of the applicant that he had never refused promotion so as to be debarred for one year under the DOPT's instructions.

3. The respondents, while contesting the OA, has filed the counter affidavit in which they are able to show that the applicant was reverted to a lower post under FR 15 (a) (2), i.e. on request of the individual, which clearly provides that for any reasons including for ICT, the applicant is debarred from further promotion for one year. In this case also the applicant had applied for reversion and his case was also considered under provisions of FR 15 (a) (2) and hence contentions of the applicant that clause of debarment has been incorrectly incorporated and he has no knowledge about the same, is found to have no merit.

4. The respondent have rightly submitted that the reversion to the grade of Tax Assistant was also only on account of request by the Applicant and now he cannot claim that this was forced upon him. It was always open to the Applicant to continue to work in Pune Zone in which case he could have retained his seniority and post.

5. The respondents are able to establish that each reversion order issued by Pune Zone was also based on precedent as well as the provisions extant at the time of issue of such reversion order. ICT to other Zones being based purely on request of the officers, each case is studied independently and based on the same and interpretation of the extant instructions, the reversion orders are issued.

6. Quite clearly, the applicant, on his own request, had applied for reversion to the post of Tax Assistant from Senior Tax Assistant so that he could get the benefit of posting at a station of his choice and the said request was accepted by the respondents under FR (a) (2) which clearly provides that no fresh promotion would be offered to such officer for a period of one year.

7. Having found merit in the contentions of the respondents, this OA is found bereft of merit and is accordingly dismissed. MA No. 138/2014 also stands disposed off. No order as to costs.

(S. N. Terdal)
Member (J)

(Nita Chowdhury)
Member (A)