

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
CIRCUIT SITTING: BILASPUR

Original Application No.650 of 2013

Jabalpur, this Friday, the 27th day of September, 2019

HON'BLE SHRI NAVIN TANDON, ADMINISTRATIVE MEMBER
HON'BLE SHRI RAMESH SINGH THAKUR, JUDICIAL MEMBER

C. Narayan Rao, S/o Late Ch.Ramanayya, Aged about 56 years,
Inspector, Customs and Central Excise, Civil Lines, Raipur, R/o
Mova, Plot No. 437/8, Raipur, District: Raipur,
Pin Code No. 492001 (Chhattisgarh) **-Applicant**

(By Advocate –**Shri B.P.Rao**)

V e r s u s

1. Deleted.
2. The Chief Commissioner, Customs and Central Excise, 48,
Administrative Area, Arera Hills, Hoshangabad Road, Bhopal,
Pin: 452001(Madhya Pradesh)
3. The Dy. Commissioner, Customs and Central Excise, 48,
Administrative Area, Arera Hills, Hoshangabad Road, Bhopal,
Pin: 452001(Madhya Pradesh)
4. The Additional Commissioner (P&V), Customs
and Central Excise, Central Excise Building, Tikrapara,
Dhamtari Road, Raipur-492001
5. Mr. Kuldeep Tigga, Working as Inspector, Central Excise
(Technical Branch), Central Excise Building, Tikrapara
Dhamtari Road, Raipur-492001
6. Mr. P.S.Vinod, Working as Inspector, Central Excise
(Personnel Branch), Central Excise Building, Tikrapara
Dhamtari Road, Raipur-492001
7. Smt. S.S.Chavan, Working as Inspector, Central Excise
(Vigilance Branch), Central Excise Building, Tikrapara

Dhamtari Road, Raipur-492001

8. Mr. K.L.Agrawal, Working as Inspector, Central Excise (Service Tax Range), 2nd Floor, Central Excise Building, Civil Lines, Raipur-492001

9. Mr. A.K.Bhoi, Working as Inspector, Central Excise (Technical Branch), C/o The Assistant Commissioner, Central Excise Division, Nehru Chowk, Bilaspur-495001(CG)

10. Mr. Uday Shankar Bhagat, Working as Inspector, Central Excise (Preventive Branch), Central Excise Building, Tikrapara Dhamtari Road, Raipur-492001

11. Mr. P. M. Dongre, Working as Inspector, Central Excise (Audit Branch), Central Excise Building, Tikrapara Dhamtari Road, Raipur-492001

12. Mr. A. K. Sinha, Working as Inspector, I.C.D. O/o The Superintendent, Inter Continental Depot, Lodhi Para Chowk, Raipur-492001

13. Mr. Binay Kumar Xalxo, Working as Inspector, O/o The Superintendent, Central Excise, Bhatapara-493118 District Balodabazar(CG)

14. Mr. Shiv Kumar, Working as Inspector, Central Excise (Audit Branch), Central Excise Building, Tikrapara Dhamtari Road, Raipur-492001

15. Mr. R.K.Senapati, Working as Inspector, O/o The Assistant Director, Directorate General of Anti-Evasion, Central Excise Building, Tikrapara Dhamtari Road, Raipur-492001

16. Mr. R.P. Dwivedi, Working as Inspector, Central Excise (Adjudication Branch), Central Excise Building, Tikrapara Dhamtari Road, Raipur-492001

17. Mr. G.K. Shridhar Rao, Working as Inspector, Central Excise (Preventive Branch), Central Excise Division, Nehru Chowk, Bilaspur-495001

18. Mr. Nirmal Tirkey, Working as Inspector, Central Excise, Kharsia Range, Raigarh-496001 (CG)

19. Mr. I. Chandra Shekhar, Working as Inspector
Central Excise Range-IV, Heerapur Housing Board Colony,
Hirapur, Raipur 492001 (CG)

20. Mr. Lalit Kishore Bara, Working as Inspector
Central Excise (Service Tax Range), 2nd Floor,
Central Excise Building, civil Lines, Raipur-492001

21. Mr. Sudhir Kumar Minz, Working as Inspector
Central Excise (Service Tax Range), 2nd Floor,
Central Excise Building, civil Lines, Raipur-492001

22. Mr. Binay Kumar Kindo, Working as Inspector,
Central Excise (Audit Branch), Central Excise Building,
Tikrapara Dhamtari Road, Raipur-492001

23. Mr. Sailesh Sinha, Working as Inspector, Central Excise
(Preventive Branch), Central Excise Building, Tikrapara
Dhamtari Road, Raipur-492001

24. Mr. Y.N. Dhawankar, Working as Inspector,
Central Excise (Service Tax Range), 2nd Floor,
Central Excise Building, Civil Lines, Raipur-492001

25. Mr. M. Sudhakaran, Promoted as Superintendent/
Central Excise C/o Commissioner, Customs and Central Excise,
Telang Khadi Road, Civil Lines, Nagpur-440001 (MS)

26. Mr. A. K. Mazumdar, Promoted as Superintendent/
Central Excise, C/o Commissioner, Customs and Central Excise,
Manikbagh Palace, P.B. No. 10, Indore (MP) 431001

27. Mr. Rajesh Kumar Purabia, Promoted as Superintendent/
Central Excise C/o Commissioner, Customs and Central Excise,
48 Administrative Area, Arera Hills, Hoshangabad Road,
Bhopal 451001 (MP)

28. Mr. Kuldeep Reddy, Promoted as Superintendent/
Central Excise C/o Commissioner, Customs and
Central Excise, Telang Khadi Road, Civil Lines,
Nagpur-440001 (MS)

-Respondents

(By Advocate –**Shri Himanshu Shrivastava**)

(Date of reserving the order:-03.04.2019)

ORDER

By Navin Tandon, AM:-

The applicant is aggrieved that he has not been assigned correct seniority in Inspector's grade.

2. The applicant has submitted as under:

2.1 He was appointed as Stenographer Grade III on 04.08.1983 and was posted at Central Excise Office at Indore.

2.2 He was served a major penalty chargesheet on 16.06.1989 and penalty of stoppage of one increment without cumulative effect was imposed on him.

2.3 He approached this Tribunal in O.A. 14/1997, which was disposed vide orders dated 23.07.2002 by which the penalty order as well as orders of Appellate Authority was set aside. The applicant therein was entitled to all consequential benefits.

2.4 Although he was confirmed as Stenographer Grade III on 22.02.1994, Stenographer Grade II on 17.08.1994 and promoted as Inspector Grade on 07.12.1994, but juniors to him was promoted to Inspectors before him.

2.5 For seeking consequential benefits, he approached this Tribunal again in O.A. No. 276/2005 and 283/2005. Both

these O.A's were disposed of by a common order dated 26.12.2006 (Annexure A-1) asking respondents to open the sealed cover for various DPO's held while disciplinary proceedings were going on.

2.6 Accordingly, respondents issued orders to confirm him as Stenographer Grade III on 22.06.1988 and Stenographer Grade II w.e.f. 25.01.1989. Seniority was also fixed accordingly.

2.7 Meanwhile he appeared for the selection for the post of Inspector in 1988, 1989, 1991,1992 and 1993 but could not succeed. He was not allowed to participate in the 1990 selection, where his juniors participated and were promoted. The applicant cleared the 1994 selection and was promoted on 07.12.1994 as Inspector.

2.8 His non participation in 1990 selection was due to lesser number of vacancies compared to other years and as per his seniority (then), he did not come in the zone of consideration.

3. The applicant has, therefore, prayed for the following relief in this Original Application:

"8. Relief Sought:-

8.1 That, the Hon'ble Tribunal be pleased to allow the O.A. and by calling entire relevant records of the case from the

possession of respondents for its kind perusal to decide the applicant's grievance.

8.2 That, the Hon'ble Tribunal be pleased to pass an order, directing the Official Respondents to issue corrigendum and to incorporate the name of the Applicant in the Seniority List of Inspector as on 1.1.2010 over and above Mr. M. Sudhakaran i.e., to give him the proforma seniority as Inspector w.e.f. 11.10.1990 in the interest of justice.

8.3 That, the Hon'ble Tribunal be pleased to pass an order, directing the Official Respondents to consider the Applicant for his further promotion as Superintendent Grade at par with Mr. Sudhakaran w.e.f. 30.06.2011 in the interest of justice.

8.4 That, the Hon'ble Tribunal be pleased to pass any other order direction deem, fit and proper in the interest of justice."

4. The respondents have filed their response in which following submissions have been made:-

4.1 The normal promotional channel for those appointed as Stenographer Grade III is Stenographer Grade II, Stenographer Grade I, P.A. and then Senior P.A.

4.2 They are also eligible for promotion to the grade of Inspector subject to their fulfillment of eligibility criteria prescribed in the Recruitment Rules for Inspector (Annexure R/1).

4.3 Subsequent to the quashment of the penalty by this Tribunal, all the claims for seniority, confirmation and promotion in the hierarchy of service in which he was

appointed have been duly accepted by the department. Accordingly, he was confirmed in the grade of Stenographer III on 22.06.1988 and promoted to Stenographer II on 25.01.1989. He was not considered for further promotion to grade of Stenographer I/P.A./Sr.P.A. in the ministerial cadre as by the time he was eligible for these grades, he opted for promotion to the grade of Inspector in the executive cadre. Hence, the applicant can not claim that he has been denied consequential benefits as a result of orders of this Tribunal.

4.4 He appeared in the selection for Inspector in the year 1988, 1989, 1991, 1992 and 1993, but the DPC did not find him fit. In all these years, he failed to qualify either in personal interview or in physical test. However, he was found fit by DPC in 1994 and he was promoted as Inspector.

4.5 Regarding 1990 selection, there were only 11 vacancies, and therefore, only 33 candidates were considered for promotion. The list comprised only Stenographer Grade II and Tax Assistants. Since the applicant was Stenographer Grade III at the material point of time, he was out of zone of consideration.

5. Heard the arguments of learned counsel of both the parties and perused the pleadings available on record.

6. The case of the applicant is that since the Tribunal in O.A. 14/1997 had granted all consequential benefits, he should be considered for promotion to Inspector Grade in 1990 selection, when his juniors were allowed to participate in the selection and were declared successful whereas the applicant was not allowed because he was not in zone of consideration.

7. Learned counsel for the respondents averred that all consequential benefits in the hierarchy have been given to him.

FINDINGS

8. It is undisputed that the promotional channel for Stenographer III is Stenographer II/Stenographer I/P.A./Sr.P.A. Consequent to the quashing of the penalty, the applicant was given confirmation in Stenographer III and promotion to Stenographer II at par with his juniors.

9. Further, the claim of the respondents have not been disputed that the applicant could not be granted promotion to Stenographer I and then P.A. and Sr. P.A. because by the time he became eligible for the same, he had opted to go to Inspector post in the executive cadre.

10. The post of Inspector in the executive cadre is not in the normal hierarchy of promotion for Stenographer cadre. For promotion to Inspector, the selection method comprises of written

test, interview, assessment of ACR's and physical test. So, only those who clear this selection process can be promoted as Inspector.

11. The applicant appeared but was not successful in the selection tests for Inspectors in the year 1988, 1989, 1991, 1992 and 1993.

12. Just because the juniors of the applicant in Stenographer category cleared the selection for Inspector in 1990 selection, the same benefit can not be given to the applicant, who could not appear in the said selection due to less number of vacancies, and was outside zone of consideration.

13. It is very clear that the term consequential benefits would mean progress in the normal hierarchy of promotion. This benefit can not be asked for a selection post in a different cadre – which is Inspector in executive cadre in the instant case.

14. In view of the above, we do not find any merit in the Original Application. Accordingly, the Original Application is dismissed. No costs.

(Ramesh Singh Thakur)
Judicial Member
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(Navin Tandon)
Administrative Member