

CENTRAL ADMINISTRATIVE TRIBUNAL
MADRAS BENCHDated the Wednesday 29th day of August Two Thousand And Eighteen

PRESENT:

THE HON'BLE MR. R. RAMANUJAM, MEMBER (A)
THE HON'BLE MR. P. MADHAVAN, MEMBER (J)

O.A./310/01159/2018

Mr. Bharath .R
S/o. Mr. P.N. Ramesh,
Flat B-03, Block-II,
Padma Garden,
No.2, Sethulakshmi Avenue,
Manapakkam,
Chennai-600 125.Applicant

(By Advocate : M/s. J. Srinivasa Mohan)

VS.

1. The Central Board of Indirect Taxes and Customs (CBIC)
[(Earlier Central Board of Excise and Customs (CBEC)]
By its Chairman,
Department of Revenue,
Ministry of Finance,
North Block, New Delhi;
2. The Commissioner of Customs,
Chennai VIII Commissionerate,
Custom House, No.60, Rajaji Salai,
Chennai- 600 001.

... .Respondents

(By Advocate:)

ORAL ORDER

(Pronounced by Hon'ble Mr. R. Ramanujam, Member (A))

Heard. Applicant has filed this OA seeking the following reliefs:-

" a) to set aside the order passed by the 2nd respondent in F.No. S14/122/2017-Estt dated 19.06.2018 and consequently direct the 2nd respondent to include the applicant's name in the seniority list for the post of Inspector (Examiner) after taking into account his past service in the Calcutta Customs House.

b) Consequent upon being including in Seniority List of Inspector (Examiner), DIRECT the 2nd Respondent to promote the applicant to the post of Appraiser from the date of his junior was promoted on 01.04.2016, with all attendant, incidental and consequential benefits."

2. Applicant had earlier filed OA No. 546/2018 seeking the benefit of court orders to the effect that persons who had been issued with inter-Commissionerate transfer on request shall not lose his/her seniority at the new place. The O.A. was disposed of by an order dated 25.04.2018 directing the competent authority to pass orders on the applicant's representation dated 13.02.2018 in accordance with law and in the light of Central Board of Indirect Taxes and Customs(CBIC) [earlier Central Board of Excise and Customs (CBEC)] order dated 3.8.2017. The impugned Annexure-A/25, order dated 19.06.2018 had been issued in pursuance of such direction.

3. Learned counsel for the applicant would submit that the second respondent had passed an order of an interim nature on the claim of the

applicant stating that court orders on the basis of which the CBEC granted the benefit of seniority to inter-Commissionerate transferees were in respect of Inspector of Central Excise and not persons such as the applicant who were Inspectors of Customs. No instructions had been received regarding its applicability to the likes of the applicant and his representation was accordingly pre-mature. It is submitted that the authorities could not discriminate between the Inspectors in the two categories as both performed similar functions and occupied the same level in their respective divisions. It is further submitted that if the second respondent was not competent to pass orders on the basis of the CBEC order referred to in the order of this Tribunal, he ought to have sought the orders of the CBEC instead of rejecting the representation at his level in this manner. Accordingly the applicant would be satisfied if the first respondent is directed to consider the matter and pass a reasoned and speaking order.

4. We have considered the submission. On perusal of the impugned order, it appears that it is not a speaking order in as much as it merely states that there are no orders of the CBEC to treat the Inspectors in the two categories similarly. We are inclined to agree with the learned counsel for the applicant that the second respondent ought to have forwarded the representation to the first respondent if he was not himself competent to decide the representation.

5. Keeping in view of the aforesaid submission but without going into the substantive merits of the case, we direct the 1st respondent to consider the

matter in accordance with law and pass a reasoned and speaking order within a period of six weeks from the date of receipt of copy of this order. In the event of a decision not to grant the request of the applicant and those similarly placed as him, the speaking order shall disclose the reasons why the Inspectors of two divisions need to be treated differentially. The OA is disposed of accordingly. No costs.