

**CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH, KOLKATA**

O.A. 350/00984/ 2019
MA 350/530/2019

Order dated: 19.07.2019

**Coram : Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Dr. Nandita Chatterjee, Administrative Member**

Kumar Saurav Das,
Son of Shri Sukanta Das,
aged about 30 years,
working as Executive Assistant
under the control and authority of CGST and
Central Excise Kolkata North Commissionerate,
Kendriya Utpad Shulk Bhawan,
180, Shantipally, Rajdanga Main Road,
Kolkata-700107
on ad hoc basis and
residing at 64/1, Debaipukur Road,
Hind Motor, District-Hoogly, Pin-712233.

..... Applicant (In O.A. 350/00984/2019)

Rajesh Kumar Raj & 119 Ors.

..... Applicants (In M.A. 350/530/2019)

Versus

1. Union of India service through the Secretary, Ministry of Finance, Department of Revenue, Central Board of Excise and Custom, 4th Floor, Hudco Vishala Building, Bhijaji Cama Place, New Delhi-110066.
2. The Chairman, Central Board of Indirect Taxes & Customs, Ministry of Finance, Department of Revenue, 4th Floor, Hudco Vishala Building, Bhijaji Cama Place, New Delhi-110066.
3. The Under-Secretary to the Govt. of India, Ministry of Finance, Department of Revenue, Central Board of Excise and Customs, 4th Floor, Hudco Vishala Building, Bhijaji Cama Place, New Delhi-110066.
4. The Director, Govt. of India, Ministry of Finance, Central Board of Excise and Customs, Room NO. 156A, near North Block 1, New Delhi-110001.
5. CGST & Central Excise Kolkata North Commissionerate, service through Assistant Commissioner (P&V), GST Bhawan, 180, Shantipally, Rajdanga Main Road, Kolkata-700107.

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6. The Principal Chief Commissioner of CGST & Central Excise, Kolkata Zone, GST Bhawan, 180, Shantipally, Rajdanga Main Road, Kolkata-700107.

..... Respondents.

For the applicant : Mr. P.C.Das, Ms. T.Maity, Counsel

For the respondents : Mr. K.K.Maity, Counsel

ORDER (ORAL)

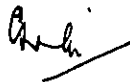
Per Dr. Nandita Chatterjee, Administrative Member:

The applicants have approached the Tribunal primarily praying for quashing/setting aside the impugned office letter dated 01.07.2019 and, further, to declare the order of promotion dated 29.06.2017 (Annexure-A/14) in the grade of erstwhile Senior Tax Assistant (now Executive Assistant) as valid and legal.

2. An M.A. bearing No. 530/2019, arising out of O.A. 984/2019, has been filed praying for joint prosecution of the matter U/R 4(5)(a) of CAT Procedure Rules, 1987. We, however, find that only the representation of applicant No.1 has been brought on record (Annexure-A/16 to the O.A.). Hence, only applicant No.1 is allowed to pursue this O.A. and cause title would stand amended accordingly. M.A. 530/2019 is rejected and disposed of.

3. Heard both Ld. Counsel, examined documents on record. Matter is taken up at the admission stage.

4. The submissions of the applicant, as made through their Ld. Counsel, in brief, is that the applicant is working in the grade of erstwhile Sr. Tax Assistant (presently Executive Assistant) and is seriously aggrieved by the orders of the



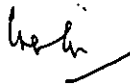
Respondent authorities dated 01.07.2019 (Annexure-A/15 to the O.A.). Ld. Counsel submits that the Recruitment Rules of Sr. Tax Assistant, Group-C had been notified on 16.02.2003, which stated that the Tax Assistants with 3 years of regular service in the grade, who have passed the departmental examination, are entitled for promotion to Sr. Tax Assistant, and, that, the applicant, in the instant O.A., fulfills such qualification in terms of the said Recruitment Rules.

That, on 26.09.2005, the Respondent authorities issued an order for implementation of the Hon'ble Andhra Pradesh High Court's order dated 07.03.2005 in Writ Petition No. 2378/2005 and Writ Petition No. 45/2005. The orders of the Hon'ble High Court of Andhra Pradesh was as follows:

"For the reasons stated above, we hold that the order of the Tribunal is not sustainable and accordingly set aside. The department is directed to fill up the vacancies in the cadre of Inspectors of Central Excise. In respect of the vacancies which arose prior to 7.12.2002 in accordance with the 1979 Rules, if any promotions are held up or kept in abeyance. They shall be given effect forthwith. However, it is made clear that we are not deciding the issue as to how the posts of Inspector should be filled up from the restructured cadre of Senior Tax Assistant in respect of the vacancies that arose after 7.12.2002. Writ Petitions are accordingly allowed. No costs."

A further clarificatory order was issued on 19.07.2006 stating that the vacancies in the old grade (i.e. as existed before cadre re-structuring) of Inspector, Tax Assistant and UDC for the period till 31.12.2002 are to be treated as promotion quota vacancies.

That, thereafter, on 15.04.2015, the post of Sr. Tax Assistant and Deputy Office Superintendent was re-designated as Executive Assistant and, on the basis of such re-designation order, cadre restructuring and re-organization of field formations was made vide office order dated 18.12.2013.



Subsequent to the said cadre restructuring, Recruitment Rules were amended vide notification dated 28.09.2015 wherein the residency period of Tax Assistant, in respect of obtaining promotion, was amended from 3 years to 10 years with passing of departmental examination. On 01.05.2017, however, the Respondent authorities issued another office order stating that the vacancies of erstwhile grade of Sr. Tax Assistant/Executive Assistant against the unfilled vacancies of Deputy Office Superintendent can be made on the basis of Recruitment Rules of 2003. On the basis of such instructions, the office of the Principal Commissioner of Central Excise, Chandigarh-I as well as that of Chennai Zone granted promotion in favour of their employees to the post of erstwhile Sr. Tax Assistant (now Executive Assistant) in situ. The Kolkata-I Commissionerate also issued the promotion order dated 29.06.2017 in which the applicant was duly promoted following the recommendations of the Departmental Promotion Committee.

That, the applicant had been serving in the promotional post on ad hoc basis for two years, but, on 01.07.2019, the Department of Revenue, Central Board of Indirect Taxes and Customs issued a direction stating that 11 letters of the Board as enlisted in the said order are to be withdrawn as they were issued without approval of the competent authority and without following the proper procedure. Hence, although, the promotional order dated 29.06.2017 has not been enlisted in the said withdrawal order, the applicant is, particularly, concerned in the context of further communication dated 08.07.2019 (Annexure-A/17 to the O.A.) wherefrom he apprehends that his promotion order dated 29.06.2017 would also be withdrawn by the Respondent authorities.

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5. Ld. Counsel for the Respondents submits that as there is nothing on record which would substantiate withdrawal of promotion order dated 29.06.2017, the apprehension of the applicant is unfounded and without any basis at this stage.

6. We find that applicant No.1 had preferred a representation on 05.07.2019 (Annexure-A/16 to the O.A.) after perusal of the withdrawal order dated 01.07.2019. Accordingly, we would deem it fit to direct the concerned Respondent authority, viz. Respondent No.2 who is the Chairman, Central Board of Indirect Taxes & Customs, Ministry of Finance, Department of Revenue, and who is also the addressee of the said communication, to examine the contents of the representation, if received at his end, within a period of 12 weeks from the date of receipt of copy of this order. The competent Respondent authority shall decide in accordance with law and issue a reasoned and speaking order thereafter to the applicant concerned.

7. With regard to the other applicants, No. 2-121, we allow them to withdraw themselves from the present application and prefer comprehensive representations to the authorities seeking amelioration of their grievances within 4 weeks from the date of receipt of a copy of this order. In the event such representations are preferred, Respondent authorities shall examine the representations and dispose of the same with reasoned and speaking orders, and, in accordance with rules, within a period of 12 weeks from the date of receipt of a copy of such representations and communicate the result forthwith.

8. With these directions, the O.A. is disposed of. No orders on costs.

(Dr. Nandita Chatterjee)
Member (A)

(Bidisha Banerjee)
Member (J)