

(451)

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO. 1198 OF 2005

IN THE MATTER OF:

SHRI R.S. POTDAR
& ORS.

APPELLANTS

VERSUS

UOI & ORS.

DEFENDANT

COUNTER AFFIDAVIT ON BEHALF OF RESPONDENT UNION OF
INDIA.

I Sarjit Singh, S/o Shri Balwant Singh aged
about 45 years, resident of
Department of Revenue, Ministry of Finance, North Block ^{New Delhi} do hereby solemnly
affirm and declares on the basis of records as under:

1. That I am working with the office of the Respondent herein and in my official capacity, I am well conversant with the fact of the case and competent to swear and affirm this Counter Affidavit.
2. That it is respectfully submitted that I have gone through the Civil Appeal filed by the appellant in the instant case and deny each and every averment made by the petitioner in its petition individually and specifically except those which are specifically admitted hereinafter. I further state that the facts stated in the affidavit are based on records and are true to the best of my knowledge and belief.
3. That the short issue in the present appeal filed by the appellants is that the appellants are seeking change in promotion ratio of the three feeder cadres namely Superintendent of Central Excise, Superintendent of Customs (Preventive) and Customs Appraiser to the post of Assistant Commissioner of Customs and Central Excise.

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4. The instant affidavit is filed by the answering respondent to give a brief overview of the matter in chronological order and the steps intended to be taken by the answering respondent to redress the situation. Without prejudice to right of the answering respondent to contest case, the answering respondent reserves its rights to file an additional affidavit on the merits of the case if so required during the course of proceedings.

Brief Facts of the Case:

5. That before 1987, the Group 'A' promotional posts used to be filled up on the basis of all the available promotional posts being apportioned to all the three feeder cadres, based on the basis of cadre strength of each feeder cadre. The Ministry framed and notified the "Recruitment Rules" namely "Indian Customs and Central Excise Service Gr. 'A' Rules 1987 (in short IC & CES Rules 1987) on 17.09.1987.
6. That as per the Indian Customs and Central Excise Service Rules, 1987, 50% of the vacancies in the grade of Assistant Commissioner of Customs and Central Excise (Junior Time Scale) are to be filled by direct recruitment on the basis of Civil Services Examination and remaining 50% by promotion of Group "B" officers of the Customs and Central Excise Department. The feeder cadres for promotion to the grade of Assistant Commissioner (JTS) are:
 - (i) Superintendent of Central Excise
 - (ii) Superintendent of Customs (Preventive) and
 - (iii) Customs Appraiser.
7. That prior to coming into force of IC & CES Rules 1987, the promotion of Group 'B' feeder cadres to the grade of Assistant Commissioner (JTS), was being made on the basis of the respective cadre strength of the three feeder categories. The filling up of the vacancies in the above manner was challenged by certain officers by way of filing Writ Petition (Civil) No. 4532-33/78 under Art. 32 before this Hon'ble Supreme Court with a prayer to evolve a proper method, frame proper rules for filling up the Gr. 'A' posts of the Indian Customs and Central Excise Service. In the said Writ

