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CENTRAL ADMINISTRATIVE TRIBUNAL
MADRAS BENCH

Monday the 31st of March Two thousand eight

PRESENT

HON'BLE JUSTICE N.S. VEERABHADRAIAH, MEMBER (J)

HON'BLE

AND

HON'BLE Mrs. O.P. SOSAMMA, MEMBER (A)

O.A. No. 873 of 2007 //

The Indian Customs & Central Excise Service Association

P. Prabhakaran

Applicants

Vs

1. Union of India rep.
Rep. by Secretary to Government
Department of Revenue
North Block
New Delhi - 1.

2. The Chief Commissioner of Customs
Customs House
Chennai - 1.

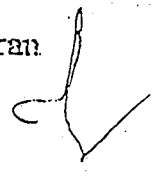
Respondents

Counsel for the applicants

M/s Karthik & Mukundan

Counsel for the respondents

Shri C. Manogharan



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ORDER

Pronounced by Hon'ble Mr. Justice N.S. Veerabhadraiah, Member

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This application is filed under Section 19 of the Administrative Tribunals Act, 1985 to direct the respondents to consider the case of the applicants for promotion as Deputy Commissioner of (STS) on ad hoc basis from the post of Asst. Commissioner (JTS) and for consequential benefits.

2. The brief facts of the case are as follows:

The applicants who are Superintendent of Central Excise, Superintendent of Customs (Preventive) and Customs Appraiser were promoted to the rank of Asst. Commissioner (Junior Time Scale). After completing four years of service as Asst. Commissioner (Junior Time Scale) the applicants made representation to the respondents seeking promotion to the post of Deputy Commissioner (Senior Time Scale) on ad hoc basis, but the same has not been considered as yet, hence they have come up with this O.A.

3. The respondents having entered appearance but despite sufficient time was granted they have not filed their reply statement.

4. Learned counsel for the applicants Shri Karthik Rajan has produced O.M. dated 16.1.2007 containing minutes of the Meeting held in the Chamber of Chairman, Central Board of Excise & Customs, and in respect of BMB No.190/06 the decision was taken by the Board to promote the Asst. Commissioners (JTS) who have completed four years in the grade. Also submitted that the applicants are entitled for promotion to the grade of Deputy Commissioner in the light of Board resolution and the Board has also recommended. Therefore, prayed to allow the O.A. or to

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issue direction to the respondents. Further submitted that in respect of similar case, the officer concerned has filed O.A. No. 189/99 and O.A. No. 998/2001 which came to be allowed with a direction to the respondents to promote those applicants to the post of Deputy Commissioner. Accordingly submitted that the case of the present applicants stands in the same footing.

5. Learned counsel for the respondents Shri C. Manogharan submitted that he informed the respondents about the aforesaid O.M. and sought for instructions, but in spite of it, the respondents have not sent any communication to him and, therefore, submitted that the Tribunal may proceed to pass suitable orders.

6. In the light of the submissions made, the point for consideration that arises is whether the applicants are entitled for promotion to the post of Deputy Commissioner (STS) or not? What orders?

7. It is not in dispute that the applicants are in the rank of Asst. Commissioner (JTS) and have also completed four years in the said grade. As per Board decision in respect of BMB No. 190/06 which reads as follows:

"Issue in brief: Date of effect for promotion to the grade of Deputy Commissioners (Senior Time Scale - STS) - Four years of completion in the Junior Time Scale.

Decision: The issue regarding the date of effect for promotion made to the grade of Deputy Commissioner (Senior Time Scale - STS) was discussed in the Board. It was noticed that the practice followed so far indicate that prior to 1997 Batch was granted STS benefit retrospectively w.e.f. the date of completion of four years in the Junior Time Scale (JTS). However, the 1997 batch was granted STS benefit prospectively from 12.11.2002, even though the four year

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period expired earlier to this date.

The issue was discussed in the Board. It was felt that there are no differences in the work/functions/powers between an Asst. Commissioner (JTS) and Deputy Commissioner (STS) and the promotions do not involve any transfers. The earlier practice in the Department of granting STS from the date of completion of four years in JTS as well as similar practice in other Services such as IRS (JT) would indicate that the grant of STS benefit has not been treated as promotion involving higher responsibilities. Grant of STS essentially involves upgradation of pay without any difference in terms of work/functions/powers. Accordingly, Board decided the following:

- (i) Senior Time Scale (STS) benefits in respect of 1997 and subsequent batch officers (whether direct recruits or promotees) may be made retrospective from the date when the officers completed four years in the JTS.
- (ii) In case of promotee officers who have been promoted as Asst. Commissioners on ad hoc basis, the STS may be granted w.e.f. the date of completion of four years from their promotion to the JTS.
- (iii) In case of direct recruit officers who joined with a subsequent batch (by taking one year extension), the officer may be granted STS, in terms of Next Below Rule (NBR), from the date his immediate junior direct recruit officer is granted STS.

8. Having regard to the decision of the Board, the applicants are entitled for upgradation. Therefore, the respondents are hereby directed to consider the case of the applicants and pass appropriate orders as per Board's decision in respect of BMB No. 190/06 in the meeting held in the Chamber of Chairman, CBEC and promote the applicants as Deputy Commissioner (STS) after considering the ACRs.

9. *With the said observations the C.A.T. is hereby...*



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DEPUTY REGISTRAR