

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date: 23.12.2016

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The Honourable Mr. Justice C.T.SELVAM
and
The Honourable Mr. Justice V.PARTHIBAN

W.P.Nos.44284 & 44285 of 2016 &
W.M.P.Nos.38131 to 38134 of 2015

All India Association of Central Excise,
Gazetted Executive Officer Association,
represented by its President,
R.Chandramouli, Chennai ... Petitioner in
W.P.No.44284 of 2016 &
9th Respondent in
W.P.No.44285 of 2016

N.Balaji Ramanathan ... Petitioner in
W.P.No.44285 of 2016
9th Respondent in
W.P.No.44284 of 2016

Versus

1. P.Bharathan
2. R.Mahendran
3. S.H.Karthikeyan

4. The Union of India,
rep. by the Revenue Secretary,
Ministry of Finance,
Department of Revenue,
North Block, New Delhi-110 001

5. The Chairman,
Central Board of Excise & Customs,
North Block, New Delhi-110 001.

6. The Chief Commissioner of Central Excise,
26/1, Mahatma Gandhi Road,
Nungambakkam, Chennai.

7. The Commissioner of Customs & Central Excise,
6/7, A.T.D.Street, Race Course Road,
Coimbatore-641 018.

8. The Central Administrative Tribunal,
Chennai Bench,
rep. by its Registrar,
City Civil Court Building,
High Court Complex,
Chennai.

.. Respondents in
both Writ Petitions

Prayer: These Writ Petitions are filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorari, to set aside the interim order granted in O.A.No.1237 of 2016 dated 5.8.2016 passed by the Central Administrative Tribunal, viz., 8th respondent herein.

For Petitioners
and for 9th Respondents in
both the Writ Petitions : Mr.V.Vijay Shankar

For Respondents 1 to 8
in both the Writ Petitions : None

COMMON ORDER

(Order of the Court was delivered by
V.PARTHIBAN, J.)

Both these Writ Petitions are directed against the interim order, dated 05.8.2016 passed by the Central Administrative Tribunal (in short, 'the Tribunal) in O.A.No.1237 of 2016.

2. The learned Tribunal, while admitting the above said Original Application, had granted the interim order to the effect, directing the official respondents to postpone the holding of DPC for considering the personnel in the feeder post to the post of Assistant Commissioner of Central Excise based on the existing seniority list of Direct Recruit Inspectors till 06.09.2016.

3. Aggrieved by the said interim order, the petitioners, viz., All India Association of Central Excise Gazetted Executive Official Association on behalf of its members and one N.Balaji Ramanathan in his individual capacity, have filed the present Writ Petitions respectively.

4. The petitioners have also approached the Tribunal seeking their impleadment in the main Original Application.

Since the interim order granted by the Tribunal had held up nearly 1800 appointments to the post of Assistant Commissioner, they have also filed applications, praying to vacate the interim order.

5. It appears from the record that the official respondents had also filed the application for vacating the interim order, dated 5.8.2016 granted by the Tribunal, along with reply statement.

6. According to the petitioners, in spite of filing of the applications for vacating the interim order, hearing of the main Original Application has been adjourned on several occasions while the interim order remains continued. According to the petitioners, at the instance of the three applicants, the entire promotion to the post of Assistant Commissioner of Central Excise has been stalled, which position, not only affects the rights of the members of the Writ Petitioner Association, but also the interest of the administration. In such view of the matter, continuation of the interim order as it granted by the learned Tribunal requires to be interfered with.

7. Heard Shri V.Vijay Shankar learned counsel appearing for the petitioners and also Shri Karthik Rajan, learned counsel, who is, though not a party in these writ petitions, but appeared to have filed a similar application which is pending before the learned Tribunal.

8. Mr.Kartik Rajan, learned counsel sought to oppose any interference of this Court, as according to him, he was also a similarly placed person as that of the applicants in the Original Application.

9. Having noted the submissions of the parties and having perused the material available on record, this Court is of the view that the learned Tribunal ought to have decided the Original Application itself having chosen to grant interim order virtually stalling the entire process of promotion to the cadre of Assistant Commissioner of Central Excise. The learned Tribunal ought to have also modified the interim order suitably in the event of adjournments being granted in order to protect the interest of the administration.

10. It is not appropriate for the learned Tribunal in allowing the matters adjourned for indefinite period and at the same time, continuing the interim order which, in fact, would not any way advance the cause of administration. In any event, any action taken by the Department pending proceedings either before the Tribunal or before this Court is always subject to the final outcome of the pending proceedings. In that view of the matter, we think it is necessary to interfere with the order passed by the learned Tribunal at this stage. Therefore, the interim order

passed by the learned Tribunal in O.A.No.1237 of 2016 dated 5.8.2016 and continuation of the same, is suspended pending disposal of the Original Application.

11. Having said so, in the interest of administration, it is appropriate that the Original Application is directed to be disposed of by the Tribunal as expeditiously as possible, protecting the rights of the parties concerned. We, therefore, direct the learned Tribunal to dispose of the Original Application in O.A.No.1237 of 2016 in accordance with law, by affording opportunity to all the parties concerned, within a period of four weeks from the date of receipt of a copy of this order.

With the above observation, these Writ Petitions are disposed of. It is made clear that any action to be taken consequent to this order, is always subject to the final outcome of the main Original Application, pending before the Tribunal. No costs. Consequently, connected WMPs are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1.The Revenue Secretary
Union of India,
Ministry of Finance,
Detachment of Revenue,
North Block, New Delhi - 11000,

2. The Chairman,
Central Board of Excise & Customs,
North Block, New Delhi-110 001.

3. The Chief Commissioner of Central Excise,
26/1, Mahatma Gandhi Road,
Nungambakkam, Chennai.

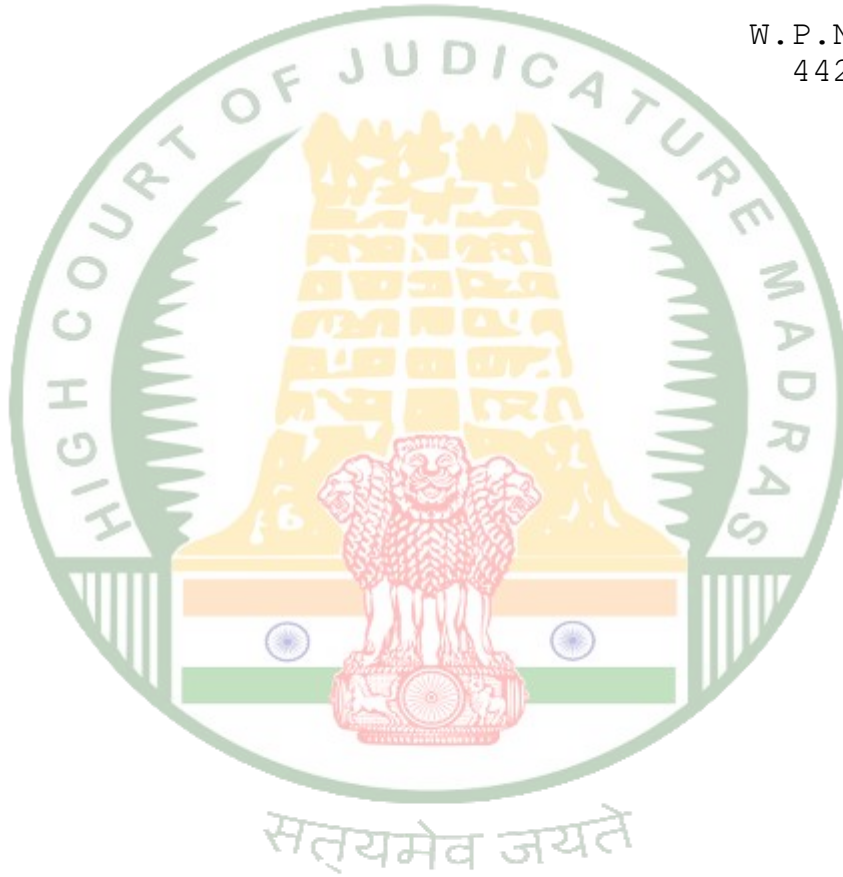
4. The Commissioner of Customs & Central Excise,
6/7, A.T.D.Street, Race Course Road,
Coimbatore-641 018.

5. The Registrar,
Central Administrative Tribunal,
City Civil Court Building,
High Court Complex,
Chennai.

+1cc to Mr.V.Vijay Shankar, Advocate, S.R.No.76210

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44285 of 2016



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