IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.07.2017

CORAM

THE HON'BLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HON'BLE MR.JUSTICE G.JAYACHANDRAN

W.P.No.42876 of 2016
and
W.M.P.No.36772 of 2016

Union of India
rep.by its Commissioner of
Customs (Import),
Office of the Commissioner of Customs,
Chennai Sea Port, Customs House,
No.60, Rajaji Salai,
Chennai-600 001. ..Petitioner

-vs-

1.The Deputy Registrar,
Central Administrative Tribunal,
Madras Bench,
Chennai-600 104.

2.Xavier Kulandairaj

3.N.Selvasekar ..Respondents

Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari to call for the records of the first respondent in O.A.No.310/01283/2014 and quash the order dated 06.07.2016 passed therein.

For Petitioner :: Mrs.Hema Muralikrishnan

For Respondents :: No appearance for R2
Mr.Balan Haridas for R3

ORDER

(Order of the Court was made by
G.JAYACHANDRAN, J.)

This writ petition is directed against the order of the Central Administrative Tribunal, Madras Bench, Chennai dated 06.07.2016, allowing the Original Application filed by the second respondent on the ground that when the deemed promotion of the second respondent is dated back to 17.07.2006, the next promotion to the higher grade pay falls due on completion of four years, ie.on 17.07.2010. However, the contention of the petitioner herein is that the second respondent is eligible to draw the grade pay only from 22.09.2010, the date on which he started officiating as Superintendent of Customs.

2.The Tribunal, after considering the rival submissions, has held as follows:

> "6.The point for consideration is as to whether the contention of the respondents that the benefit of the Clause 2 of Annexure A1 should be extended to the applicants only from 22.09.2010, is tenable.
>
> 7.The above narration of facts would exemplify and demonstrate that no doubt the applicants were promoted w.e.f. 22.09.2010 on adhoc basis as Superintendent of Customs (Prev.), but the review DPC pointed out that they should be notionally promoted on regular basis w.e.f. 17.07.2006. Accordingly for getting the benefit of Clause 2 of Annexure A1 extracted supra on completion of 4 years the benefit contemplated therein should be given. Once notionally the promotion is given then from the notional date the four years should be reckoned and on completion of that 4 years' period that is on 17.07.2010 itself, the benefit of Clause 2 under Annexure A1 should be extended."

3.While the promotion itself is a deemed promotion due to belated constitution of DPC, questioning the date of promotion of the second respondent, on the ground that the second respondent is eligible for promotion only from the date on which he started officiating as Superintendent of Customs, does not arise.

4.The order passed by the Department of Revenue, Office of the Commissioner of Customs, Ministry of Finance, Government of India, Chennai, in F.No.C41/12/2013-Estt. dated 14.06.2013 clearly indicates that based on the recommendation of the review DPC held on 01.06.2013, the officers were promoted as Superintendent of Customs (Preventive), with effect from the dates indicated against their names. In the said order, the name of the second respondent is shown against Serial No.21, wherein the date of deemed promotion as Superintendent of Customs (Preventive), is indicated as 17.07.2006. While so, there is no rhyme or reason for the petitioner, to postpone the deemed promotion to a different date, detrimental to the officers. The impugned order passed by the Central Administrative Tribunal, Madras Bench, Chennai dated 06.07.2016 in O.A.No.310/ 01283/2014 is in accordance with law and the same does not require any interference.

5.In the result, the writ petition stands dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

KM

To

The Deputy Registrar,
Central Administrative Tribunal,
Madras Bench,
Chennai-600 104.

+ 1 cc to Ms. Hema Muralikrishnan, Advocate Sr.46472

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PVS(CO)
EU 1.08.2017