

IN THE HIGH COURT OF JUDICIATURE AT MADRAS

DATE D : 21.03.2018

CORAM

THE HON'BLE MR.JUSTICE HULUVADI G.RAMESH
and
THE HON'BLE MR.JUSTICE RMT.TEEKAA RAMAN

W.P.No.20450 of 2016

1. P.A.Parameswaran
2. L.Janani
3. B.Sridhar
4. G.Balambal
5. Prabhakaran Hari Prasad
6. T.Krishnadas
7. V.Sunilkumar
8. Uma Sivadass
9. K.E.Narayana
10. S.Raja
11. P.V.Chandra Suresh
12. M.Sasikumar
13. Thomas Mathew
14. K.Bindusaran
15. R.K.Satheesh Kumar
16. K.R.Sivakumar
17. S.Rajasekaran

.... Petitioners

... Vs ...

1. Union of India,
Rep. by its Secretary to Government,
Department of Revenue,
Ministry of Finance,
New Delhi - 110 001.

2. The Chairman,
Central Board of Excise & Customs,
Department of Revenue,
Ministry of Finance,
Govt. of India, North Block,
New Delhi - 1.

3. The Secretary to Government,
Department of Personnel & Training,
North Block, New Delhi-1.

4. Commissioner,
Central Excise, Customs & Service Tax,
6/7, ATD Street,
Race Course Road,
Coimbatore - 641 018.

5. Commissioner,
Central Excise, Customs & Service Tax,
Annaimeedu, Salem.

6. The Registrar,
Central Administrative Tribunal,
Madras Bench,
Chennai.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the order dated 05.02.2014 in O.A.Nos.1419-1421, 840-853, 858, 884-896 all of 2012 and O.A.No.35 of 2013 on the file of the sixth respondent, quash the same insofar as the petitioners are concerned and consequently direct the respondents 1 to 5 to initiate the measure to provide independent promotional avenues to the petitioners and promote the petitioners to corresponding level in Group A, in the Department of Central Board of Excise and Customs with all consequential monetary and service benefits with retrospective effect, within a time frame as may be fixed by this Court.

For Petitioners: Mr.P.Wilson, Senior Counsel
for M/s.P.Buvaneswari

For RR-1 to 5 : Mr.G.Rajagopalan,
Additional Solicitor General
for Mr.T.R. Senthilkumar

For R-6 : Tribunal

ORDER

(Order of the Court was made by RMT.TEEKAA RAMAN, J.)

Challenging the order passed by the sixth respondent/Central Administrative Tribunal in O.A.Nos.1419-1421, 840-853, 858, 884-896 all of 2012 and O.A.No.35 of 2013, dated 05.02.2014, the present Writ Petition came to be filed.

2. The above Original Applications were filed by the petitioners herein and 15 others seeking a direction to the respondents for creating promotional avenues for them and to

promote them on par with their batch mates from Customs (Examiner / Appraiser) and Income Tax with all consequential monetary and service benefits, within a time frame fixed by the Tribunal. After hearing the rival submissions made on either side, the Central Administrative Tribunal, Madras Bench, by order dated 05.02.2014, disposed of the said original applications and issued a direction to the respondents to ensure the expeditious implementation of the decisions taken by them, for filling up the higher vacant posts by effecting promotions according to the revised quota and principles, following the directions issued by the Supreme Court in C.A.No.1198 of 2005 with W.P.No.385 of 2010 on 03.08.2011, the notification of the new Rules and the sanction of additional posts. Having not satisfied with the above direction, some of the applicants before the Central Administrative Tribunal have moved this writ petition before this Court.

3. Heard Mr.P.Wilson, learned Senior Counsel appearing for the petitioners and Mr.G.Rajagopalan, learned Additional Solicitor General appearing for respondents 1 to 5 and perused the order of the Central Administrative Tribunal.

4. Originally, after following the directions of the Supreme Court, the ratio of 13:2:1 was fixed and subsequently, Rules have been amended and Notifications said to have been issued pending the above Original Applications as well as Writ Petition and cadre re-structuring has been done. Now, new rules have been framed in respect of the promotion of the petitioners herein.

5. Mr.P.Wilson, learned Senior Counsel appearing for the petitioners drawn our attention to the Draft Notification dated 08.12.2014, wherein, in Schedule - I at Sl.No.9, 2118 posts of Assistant Commissioner of Customs and Central Excise (Grade-IX) (Junior Time Scale - Temporary posts) said to have been vacant. The learned Senior Counsel also relied upon the reply given under Right to Information Act, 2005, by the CPIO & Assistant Director which would show that for Assistant Commissioner/Deputy Commissioner, there are 1374 posts vacant.

6. Mr.G.Rajagopalan, learned Additional Solicitor General appearing for respondents 1 to 5 submitted that already, the Central Administrative Tribunal, Madras Bench, has given a positive direction for filling up the higher vacant posts by effecting promotions according to the revised quota and principles and as such, the petitioners cannot seek any relief more than that of the one they have sought for in the original applications.

7. As per the directions issued by the Apex Court in Civil Appeal No.1198 of 2005 with W.P.(C) No.385 of 2010, dated

03.08.2011, only after six years, the ratio has been adopted as that of 13:2:1 and subsequently, Rules have been amended and Notifications said to have been issued and cadre re-structuring seems to have been done left with only for filling up of the post of Assistant Commissioner of Customs and Central Excise (Grade-IX) to which these petitioners claim to be eligible and even they have been denied promotion for more than 20 years.

8. It appears that though Rules have been amended and cadre re-structuring has been done, no positive steps have been taken for more than two decades, in view of certain litigations pending before the different Forum. Since the Central Administrative Tribunal, Madras Bench, has already given a positive direction for filling up the higher vacant posts by effecting promotions according to the revised quota and principles, we are of the considered view that taking into account the long period of more than two decades, the respondents 1 to 5 are required to fill up the higher vacant posts at the earliest without any further delay.

9. With the above observations, the Writ Petition is disposed of. No costs.

s/d-
Assistant Registrar(CS VIII)

True Copy

Sub-Assistant Registrar

Jr1

To

1. The Secretary to Government,
Union of India,
Department of Revenue,
Ministry of Finance,
New Delhi - 110 001.
2. The Chairman,
Central Board of Excise & Customs,
Department of Revenue,
Ministry of Finance,
Govt. of India, North Block,
New Delhi - 1.
3. The Secretary to Government,
Department of Personnel & Training,
North Block, New Delhi-1.

4. Commissioner,
Central Excise, Customs & Service Tax,
6/7, ATD Street,
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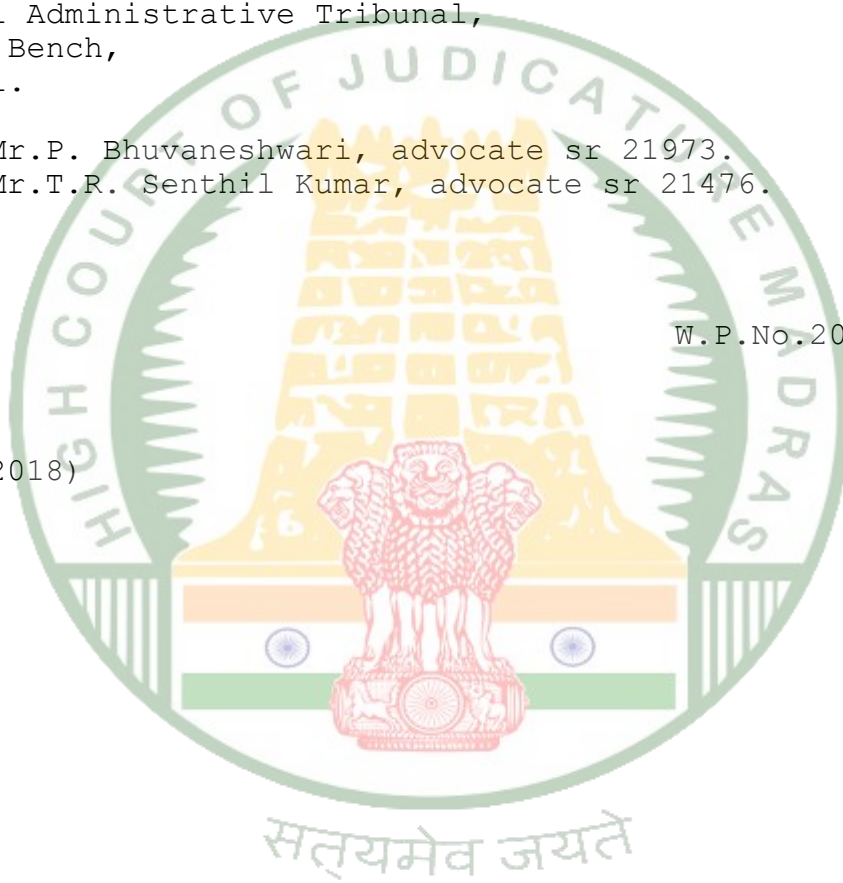
6. The Registrar,
Central Administrative Tribunal,
Madras Bench,
Chennai.

+1 CC to Mr.P. Bhuvaneshwari, advocate sr 21973.

+1 Cc to Mr.T.R. Senthil Kumar, advocate sr 21476.

W.P.No.20450 of 2016

RJI (CO)
SP (13/04/2018)



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