

THE HON' BLE SRI JUSTICE SURESH KUMAR KAIT

AND

THE HON' BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.44510 OF 2017

ORDER: (ORAL)

(Per Hon'ble Sri Justice Suresh Kumar Kait)

Vide the present petition, the petitioner has approached this Court challenging order, dated 22.12.2017, passed in O.A No.21/ 1142/ 2017 by the Central Administrative Tribunal, whereby the Tribunal ordered notice to the respondents therein without granting stay of the office order No.209 of 2017 dated 18.12.2017 of the Government of India, Ministry of Finance, Department of Revenue, Central Board of Excise and Customs, New Delhi, causing empanelment/promotion of officers of Indian Revenue Service (Customs & Central Excise) to the grade of Joint Commissioner of Customs and Central Excise on regular basis with effect from 01.04.2002 against the panel year 2002-03.

2. Learned counsel appearing on behalf of the petitioner submits that vide letter, dated 14.12.2017, on the file No.A-23020/ 02/ 2017-Ad-II, Government of India, Ministry of Finance, Department of Revenue, Central Board of Excise and Customs, issued draft seniority list of IRS Officers in the grade of Joint Commissioner of Customs and Central Excise and the same was published on 18.12.2017. In the draft seniority list, it is advised by the officers concerned to file representations/ objections, against the assignment of seniority as well as factual mistakes, if any to the Principal ADG (HRM-I) in the Directorate of Human Resource Development, Customs & Central Excise, New Delhi, and in any case, not later than 22-12-2017. It is made clear that representations received after 22.12.2017 will not be considered.

3. Learned counsel for the petitioner further submits that the petitioner, on the very same day i.e.18.12.2017, filed his representation/ objection, however, the same has not been considered by the respondents, and on the contrary, on 18.12.2017 itself, final list was published without waiting till the last date of the submission of the representations/ objections i.e. 22.12.2017.

4. Challenging the same, the petitioner has filed O.A. before the Central Administrative Tribunal and the Tribunal ordered notice to the respondents for filing counter, but not granted stay and posted the matter to 02.02.2018.

5. Though we do not find any illegality or perversity in the order, dated 22.12.2017 passed by the Tribunal, but in view the of facts as stated in the present petition, and the submissions of the learned counsel petitioner that the final seniority list was published on 18.12.2017 without waiting till the last date of submissions of representations/ objections i.e. 22.12.2017, it seems that the respondents have not considered the representation/ objections filed by the petitioner and in a hurried manner on 18.12.2017 itself published the final seniority list.

6. In view of the facts recorded above, we hereby direct the respondents to consider the representation/ objections filed by the petitioner on 18.12.2017, within a period of two (2) weeks from the date of receipt of a copy of this order and communicate the decision that may be taken thereon, to the petitioner, within a period of one week thereafter.

7. It is needless to state that if the petitioner is aggrieved by the decision taken by the respondents, he is at liberty to challenge the same at the appropriate forum. We make it clear that while taking decision on

the representation of the petitioner, the respondents shall take note of the observations made by this Court in WP No.15085 of 2010 dated 05.02.2018.

8. In view of the orders passed by this Court in the present writ petition, the O.A. pending before the Central Administrative Tribunal is also disposed of.

9. Accordingly, the Writ Petition is disposed of. No order as to costs. As a sequel, miscellaneous petitions, if any, pending shall stand closed.

SURESH KUMAR KAIT, J

ABHINAND KUMAR SHAVILI, J

February 05, 2018
KTL

