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HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 9669 of 2019**

1. Union of India Through Its Secretary, Ministry of Finance, Department of Revenue, North Block, New Delhi-110001.
2. Central Board of Excise & Customs Through Chairman, Revenue Department, North Block, New Delhi-110008.
3. The Chief Commissioner, Customs & Central Excise and Central Tax, Cadre Controlling Authority, MP Chhattisgarh & Nagpur Region, 48 Administrative Area, Arera Hills, Hoshangabad Road, Bhopal-462011.
4. The Principal Commissioner, Customs & Central Excise and Central Tax, Raipur Chhattisgarh-492001.

---- Petitioners**Versus**

1. Himanshu Verma S/o Late Shri P. C. Verma Aged About 59 Years Presently Working As Superintendent Central Excise, Raipur, Chhattisgarh-492001.
2. P. K. Kale S/o Late Shri P. R. Kale Aged About 57 Years Presently Working As Superintendent Central Excise, Raipur, Chhattisgarh-492001.
3. S. C. Agarwal S/o Late Shri J. P. Agarwal Aged About 57 Years Presently Working As Superintendent Central Excise, Raipur, Chhattisgarh-492001.
4. Nishit Chandra Mathur S/o Late Shri M. C. Mathur Aged About 56 Years Presently Working As Superintendent Central Excise, Raipur, Chhattisgarh-492001.
5. Chandra Kumar Sahu S/o Shri Sahib Ram Sahu Aged About 59 Years Presently Working As Superintendent Central Excise, Raipur, Chhattisgarh-492001.
6. A. K. Khan S/o Late Shri I. H. Khan Aged About 57 Years Presently Working As Superintendent Central Excise, Raipur, Chhattisgarh-492001.
7. Pankaj Saran S/o Late Shri Siaraghubin Saran Aged About 59 Years Presently Working As Superintendent Central Excise, Raipur, Chhattisgarh-492001.

8. Rakesh Gauraha S/o Late Shri Bhagawat Prasasad Gauraha Aged About 59 Years Presently Working As Superintendent Central Excise, Raipur, Chhattisgarh-492001.
9. A. Babu Rao S/o Shri A. V. Aged About 56 Years Presently Working As Superintendent Central Excise, Raipur, Chhattisgarh-492001.
10. S. P. Despande S/o Shri Prabhakar Deshpande Aged About 61 Years Retired As Superintendent Central Excise, Raipur, Chhattisgarh-492001.
11. Naru Siggh Patra S/o Shri S. C. Patra Aged About 59 Years Presently Working As Superintendent Central Excise, Raipur, Chhattisgarh-492001.
12. Gopal Prasad Joshi S/o Late Shri Banmali Joshi Aged About 54 Years Presently Working As Superintendent Central Excise, Raipur, Chhattisgarh-492001.
13. Jasram Kindo Presently Working As Superintendent Central Excise, Raipur, Chhattisgarh-492001
14. Kripanand Bharati Presently Working As Superintendent Central Excise, Raipur, Chhattisgarh-492001.
15. Gangadhar Majhi Aged About 53 Years Presently Working As Superintendent Central Excise, Raipur, Chhattisgarh-492001.

---- Respondents

For Petitioners	:	Shri B. Gopa Kumar, Assistant Solicitor General and Shri Himanshu Shrivastava, Advocate.
For Respondents	:	Shri A.V. Shridhar, Advocate.

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice
Hon'ble Shri Justice Parth Prateem Sahu, Judge
Order on Board

Per P. R. Ramachandra Menon, Chief Justice

25.11.2019

1. This writ petition has been filed by the Union of India and Others, who are the Respondents in Original Application No. 203/285 of 2018 before the Central Administrative Tribunal, Jabalpur circuit Bench sitting at Bilaspur (for short, 'Tribunal').

2. The grievance is against the interim order passed by the Tribunal to maintain the *status-quo* with regard to the promotion sought to be made and also against the order passed by the Tribunal, whereby the M.A. filed for vacating the interim order came to be dismissed, ordering the Original Application itself to be listed for final hearing.
3. Heard Shri B. Gopa Kumar, Assistant Solicitor General and Shri Himanshu Shrivastava, the learned counsel appearing for the Petitioners and Shri A.V. Shridhar, the learned counsel for the Respondent who are the Applicants in the Original Application.
4. The prayers in the Original Application are in the following terms:
 - “i) Hon'ble Court may kindly be pleased to call entire record pertaining to combined seniority of applicants.
 - ii) Hon'ble Court may kindly be pleased to direct competent authority to prepare the fresh combined seniority list in the cadre of superintendent central excise, by the following the principle of catch up rule and instructions of DoPT existing as on date in this regard, as discussed supra.
 - iii) Hon'ble Court may kindly be pleased to direct respondent authority to consider eligible candidates for promotion to the post of Assistant Commissioner, Central Excise after preparation of seniority list of Superintendent of Central Excise following the catch up rule.
 - iv) Hon'ble Court may kindly be pleased to grant other reliefs in the circumstances of the case.”
5. When the matter came up for consideration on 23.03.2018, the Tribunal granted an interim order of *status-quo* as mentioned above, which according to the Department was quite detrimental to the interest of the Department, insofar as

the rightful promotions to be given to the persons working as Superintendents, to the post of Assistant Commissioners, came to be stalled all over the country and quite a number of Superintendents are about to retire on attaining the age of superannuation without getting chance to function as Assistant Commissioners and this has affected the Department as well. The M.A. was considered by the Tribunal on 21.08.2019 and after hearing both the sides, the Tribunal observed with reference to the 'Catch-up Rule' and the course and proceedings to be followed in the light of the law declared by the Apex Court on the point with reference to the relevant provisions of Constitution of India; that the matter required to be heard finally. It was accordingly that the matter were ordered to be listed for final hearing on 18.09.2019, making it clear that no adjournment shall be given on that day and further that, in case anybody was not present, the matter would be proceeded with and finalized in terms of Rule 15(1) & 16(1) of the Central Administrative Tribunal (Procedure) Rules, 1987.

6. For sake of convenience, we find it appropriate to extract the said Rule, as given below:

“15. Action on application for application's default.-

(1) Where on the date fixed for hearing of the application or on any other date to which such hearing may be adjourned the applicant does not appear when the application is called for hearing, the Tribunal may in its discretion, either dismiss the application for default or hear and decide it on merit.

(2) xxx

16. Ex parte hearing and disposal of application.-

(1) Where on the date fixed for hearing the application or on any other date to which such hearing may be adjourned, the applicant appears and the respondent does not appear when the application is called for hearing, the Tribunal may, in its discretion adjourn the hearing, or hear and decide the application *ex parte*.

(2) xxx”

The learned Assistant Solicitor General submits, in response to a query made by this Court as to what transpired on 18.09.2019, that the matter was adjourned to 20.11.2019; on which day it was again adjourned to 22.01.2020 to be heard at Bilaspur.

7. The learned counsel for the Applicants who are the Respondents herein submits that the adjournment was sought for on 18.09.2019 before the Tribunal on behalf of both the sides and on the next date of hearing i.e. 20.11.2019, it was adjourned at the instance of the Respondents in the OA, who are the Petitioners herein, so as to enable them to address the Tribunal through the Assistant Solicitor General. It is stated that a submission was also made on behalf of the Respondents in the Original Application before the Tribunal that they had already moved the High Court against the order dated 21.08.2019 (Annexure P/1).
8. The order under challenge clearly denotes the fact that the necessity to have an urgent hearing pointed out by the Department was considered by the Tribunal and the requirement in this regard was felt necessary; which made the Tribunal to have the matter listed for final hearing at the 'top of hearing list' on 18.09.2019, during the next circuit Court sitting at Bilaspur, simultaneously, making it clear that no adjournment would be granted and the consequences will follow, if at all anybody was not present, as mentioned already.
9. In fact, the matter would have heard and finalized by the Tribunal on 18.09.2019, but for the adjournment sought for on behalf of the Respondents in the Original Application/present Petitioners. It is seen that the matter was still got adjourned on 20.11.2019 and this being the position, absolutely no blame can be put up on the Tribunal in finalizing the matter.
10. It is brought to the notice of this Court that the case has now been listed for final

hearing in the sitting at 'Bilaspur' on 22.01.2020. The learned Assistant Solicitor General submits that, because of the urgency, the Petitioners herein may be permitted to move the Tribunal to have the matter heard at 'Jabalpur' by filing appropriate proceedings in this regard and to have the matter finalized on the next date itself.

11. The learned counsel appearing for the Respondents herein (who appears for Applicants in the Original Application) submits that the Applicants in the Original Application do not have any objection in this regard and that the matter could be heard and finalized in the next hearing, whether it be at Jabalpur or at Bilaspur.
12. In view of the consensus reached as above, we dispose off the writ petition with liberty to the parties to move the Tribunal by way of appropriate proceeding in this regard. We express our hope and desire that the issue be heard and finalized on as above.

Sd/-

(P. R. Ramachandra Menon)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge