

R.M. AMBERKAR
(Private Secretary)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION (ST) NO. 10673 OF 2019

SatYender Kumar & Ors .. Petitioners
Vs
Balwant Ramashankar Singh & Ors. .. Respondents

WITH
WRIT PETITION NO. 5605 OF 2019

Union of India & Ors. .. Petitioners
Vs
Balwant Ramashankar Singh & Ors. .. Respondents

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- Mr. Sandeep V. Marne for the Petitioners in WP ST 10673/19
 - Mr. Sudhir Talsania, Sr. Advocate with Mr. Rahul Walia for Respondent No. 1 in both the Petitions
 - Mr. Anil Singh, Additional Solicitor General with Mr. Rui Rodrigues, Ms. Neeta V. Masurkar and Ms. Geetia Gandhi for UOI - Respondent Nos. 2 to 4 in WP ST 10673/19
 - Mr. Anil Singh, Additional Solicitor General with Mr. Rui Rodrigues and Ms. Neeta V. Masurkar for the Petitioners in WP 5605/19
 - Ms. Vaidehi Pusalkar i/by S.R. Atre for Interveners in WP ST 10673/19
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CORAM : AKIL KURESHI &
SARANG V. KOTWAL, JJ.

DATE : MAY 2, 2019.

P.C.:

1. Not on board. Mentioned. Taken on board.
2. These petitions are filed by the employees of the Customs Department and Union of India respectively. In both

these petitions, the petitioners have challenged an order dated 18.3.2019 passed by the Central Administrative Tribunal, Mumbai in Original Application No. 157 of 2019. This Original Application was filed by respondent No. 1 in both these petitions. The Original Application came to be disposed of in following terms:-

- "2. The main contention of the applicant in this OA is that the number of vacancies considered for promotion as Appraiser in 2002 was not 274 but those vacancies actually were 409 and, therefore, conducting of review of DPC in 2002 is necessary for considering promotion of the applicant and similarly placed other candidates. Along with this OA, he has also placed on record a copy of the report of the meeting held on 03.03.2016 of the Committee duly constituted to examine the feasibility of conducting review DPC of Examiners.
3.
4.
5. The applicant further claims that because of non-conducting of the review DPC, he has been deprived of promotional opportunities. In this regard, the applicant has also submitted his representation dated 26.12.2018 to the Principal Chief Commissioner of Customs, New Customs House, Mumbai seeking implementation of the Feasibility Committee report dated 15.3.2016.
6. In view of the issues raised in the above pending representation of the applicant dated 26.12.2008 being the same as raised in the present OA, in our opinion, it would be appropriate to dispose of the OA at the stage of admission with directions to the respondents to consider the above representation of the applicant and to take appropriate

decision on the issues referred to in it as per the relevant provisions of rules and instructions and to hold review DPC for the Examiners from 2002 to 2014 as recommended by the Feasibility Committee in its report dated 15.03.2016. This exercise should be completed within a period of four weeks from receipts of copy of this order.

7. The respondents are further directed not to hold DPC for promotion of Appraisers as Assistant Commissioner of Customs till decision on the representation of the applicant and conducting of the review DPC for the Examiners get completed.
8. In view of the aforesaid directions, OA is disposed of at the admission stage itself, without expressing our opinion on merits of the case."

3. Apart from raising grievances on merits, the petitioners main ground pressed before us today was that the Tribunal has passed the final order in Original Application without a notice to any of the respondents.

4. Having heard the learned counsel for the parties and having perused the documents on record, it emerges as undisputed position that the Central Administrative Tribunal, Mumbai passed the impugned order without notice either to the Union of India or any other respondents. Thus, the Original Application was finally disposed of without hearing any of the respondents. In that view of the matter, the order

of the Tribunal which gives final directions to the Departmental Authorities without hearing them cannot survive.

5. Learned counsel for the Original Applicant before the Tribunal requested that by consent, the order may be set aside and the Original Application may be placed back before the Tribunal for fresh decision. In that view of the matter, we do not record any further elaborate reasons.

6. In the result, the impugned order dated 18.3.2019 is set aside only on that ground. Original Application No. 157 of 2019 is revived and it be placed before the Tribunal for further hearing in accordance with law.

7. Both the petitions disposed of.

[SARANG V. KOTWAL, J.]

[AKIL KURESHI, J]