IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.12.2024

CORAM :

**THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM**
**AND**
**THE HONOURABLE MR. JUSTICE M.JOTHIRAMAN**

W.P.No.21596 of 2023

Manish Kanti Banik ... Petitioner

*Vs.*

1.Union of India,
Rep. by the Secretary to Government of India,
Department of Revenue, Ministry of Finance,
Central Board of Excise and Customs,
North Block,
New Delhi – 110 001.

2.The Chief Commissioner of Customs,
Customs House,
Chennai – 600 001. ... Respondents

**Prayer:** Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the order dated 08.03.2023, passed in O.A.No.310/1665/2016 by the Central Administrative Tribunal, Chennai Bench and quash the same and consequently, direct the respondents to promote the petitioner to the post of Assistant Commissioner notionally with effect from 08.01.2007, the date on which his junior was promoted with all consequent monetary, service and attendant benefits.

For Petitioner : Mr.T.Venugopal

For Respondents : Mr.M.Santhana Raman
Senior Standing Counsel
for Customs & GST

**ORDER**

(Order of the Court was made by *S.M.SUBRAMANIAM, J.*)

The writ petition has been instituted challenging the order dated 08.03.2023 in O.A.No.310/01665/2016. The writ petitioner instituted the Original Application seeking notional promotion with effect from 08.01.2007 in the post of Assistant Commissioner and for grant of subsequent promotions to the post of Deputy Commissioner and Joint Commissioner on par with his immediate junior.

2.The name of the petitioner was deferred for promotion on the ground that he was convicted by the competent Criminal Court of Law in a corruption case. However, Criminal Appeal filed by the petitioner was allowed by the High Court, Madras and thereafter he was reinstated and allowed to retire from service. He filed an application before the Tribunal seeking retrospective promotions on par with his immediate junior. During the pendency of the Original Application, the Government of India, Ministry of Finance, Department of Revenue in Office Order No.130/2019 dated 16th September, 2019 granted promotion to the post of Deputy Commissioner (Customs and Central Excise) to the petitioner with effect from 24.06.2013. Consequently, in Office Order No.176/2019 dated 30th December, 2019, the petitioner was promoted to the grade of Joint Commissioner (Customs and Central Excise) on *ad-hoc* basis notionally with effect from 01.07.2017. When the notional promotions were granted to the post of Deputy Commissioner and Joint Commissioner respectively, the petitioner made a submission before the Central Administrative Tribunal that the notional promotion was granted to the petitioner. Recording the said submission, the Central Administrative Tribunal held that the prayer as such sought for in the Original Application become infructuous and accordingly, Original Application itself was dismissed as infructuous. Challenging the said order, the present writ petition is filed.

3.Learned counsel for the petitioner would submit that the petitioner has made a prayer for notional retrospective promotion in the post of Assistant Commissioner with effect from the year 2007. If at all the notional promotion already granted to the petitioner is not in accordance with the prayer sought for by the petitioner in the Original Application, he could challenge the said order granting notional promotion to the post of Deputy Commissioner and Joint

Commissioner, more specifically, in the post of Joint Commissioner from the year 2017 onwards. Having accepted those two notional promotions to the post of Deputy Commissioner and Joint Commissioner, now he cannot turn around and made a submission that he is entitled for notional promotion in the post of Assistant Commissioner from the year 2007. If at all any grievances exist to the petitioner, it is left open to him to workout his remedy in the manner known to law.

4.Thus, we do not find any infirmity in respect of the order passed by the Central Administrative Tribunal, which is impugned in the writ petition. Consequently, the writ petition stands dismissed. No costs.

**[S.M.S., J.]** **[M.J.R., J.]**
**04.12.2024**

Index: Yes
Speaking order / Non-speaking order
Neutral Citation : Yes/No
rsi

To

1. The Secretary to Government of India,
   Union of India,
   Department of Revenue, Ministry of Finance,
   Central Board of Excise and Customs,
   North Block,
   New Delhi – 110 001.

2. The Chief Commissioner of Customs,
   Customs House,
   Chennai – 600 001.

**S.M.SUBRAMANIAM, J.**
**AND**
**M.JOTHIRAMAN, J.**

rsi

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