IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.03.2025

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH
AND
THE HONOURABLE MR. JUSTICE N.SENTHILKUMAR

W.P.No.7993 of 2023
and W.M.P.No.8232 of 2023

1. The Chief Commissioner of Central Excise,
Now known as principal Chief commissioner of GST and Central Excise Chennai Zone, No. 26 / 1, Mahatma Gandhi Road, Nungambakkam, Chennai 600 034

2. The commissioner of Central Excise,
Now known as commissioner of GST and Central Excise, Chennai Zone No. 26 / 1, Mahatma Gandhi Road, Nungambakkam, chennai 600 034

3. The Additional Commissioner of central Excise,
Now known as Additional commissioner of GST and Central Excise, Chennai Zone, No. 26 / 1, Mahatma Gandhi Road
Nungambakkam chennai 600 034

...Petitioners

Vs.

1. The Central Administrative Tribunal
Rep. by its Registrar,
City Civil Court Buildings,
Chennai 600 104

2.C.Geetha
W/o M.S.G. Nair No. 8 / 73,
Tiruvalluvar Nagar 3rd street
chennai 600 118

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorari, to call for the records of the first respondent in OA. No. 310 / 01284 / 2014 dated 02.09.2022, quash the same as illegal, unreasonable and contrary to the service jurisprudence and law laid down by the Apex court.

For Petitioner : Mr. K. Srinivasa Murthy, SPCCG

For Respondents : Mr. K. Raja for R2

ORDER

(Order of this Court was delivered by M.S.RAMESH.J)

Originally, when the second respondent had filed an application before the Central Administrative Tribunal challenging the orders of the petitioners herein, rejecting her request for promotion to the post of

Inspector of Central Excise with effect from the date on which her immediate junior was promoted to the said post, together with all monetary benefits and other attendant benefits, the Tribunal, through its order dated 18.09.2008, had allowed the application and directed the petitioners herein to promote her to the post of Inspector of Central Excise with effect from the date of her immediate junior Mr.Boominathan was promoted, together with all monetary and attendant benefits.

2. When the said order of the Tribunal was challenged before a Co-ordinate Bench of this Court in W.P.No.2836 of 2009 by the petitioners herein, the same was rejected and further, a direction was given to the petitioners herein to comply with the orders of the Tribunal within a period of four weeks. Subsequently, the petitioners herein had granted notional promotion to the second respondent herein on 08.02.2010 to the post of Inspector of Central Excise with effect from 13.06.2003. However, on the second respondent's subsequent request for extending the monetary benefits for the promotion post, the petitioners had rejected the same through order dated 07.05.2010 by placing reliance

on Rule 17 (1) of Fundamental Rules and held that the second respondent would be entitled for monetary benefit from the date of assuming charge as Inspector i.e from 17.02.2010 only. After that, it is claimed by the second respondent that several representations were made for extending monetary benefits, however they were in vain. Ultimately, by an order dated 25.03.2014, her request was once again rejected on the ground that she would not be entitled for the monetary benefits on the principle of "no work no pay". The order was challenged by the second respondent herein before the Central Administrative Tribunal in O.A.No.1284 of 2014, which came to be allowed on 02.09.2022, which order is under challenge in the present Writ Petition.

3. Learned Standing Counsel for the petitioners herein would submit that though the petitioner's request was rejected way back in 2014 itself, she had failed to challenge the same in a manner known to law and therefore her claim before the Tribunal hit by delay and latches.

4. Per contra, the learned counsel for the second respondent would submit that after the second respondent's original request was rejected on

25.03.2014, she had given several representations, which were also favourably proposed before the Department. However, the rejection came only after about 4 years there from and hence, she had challenged the same before the Tribunal. Therefore, he submits that there was no delay on the part of the second respondent herein.

5. Heard the learned standing counsel for the petitioners and the learned counsel for the second respondent and have perused the materials on record.

6. We are unable to endorse the submissions of the learned Standing Counsel for the petitioners on two grounds. Firstly, when there is an order of the Tribunal, directing to grant notional promotion to the second respondent herein to the post of Inspector of Central Excise from the date on which her immediate junior was promoted with a further direction to pay of the monetary and attendant benefits, there was a duty cast on the petitioners to comply with the said order rather than quoting certain alleged disqualification under the fundamental rules. Further the order passed by the Tribunal had also attained finality when it was

unsuccessfully challenged by the petitioners herein before a Co-ordinate Bench of this Court in W.P.No.2836 of 2009. As a matter of fact, the Division Bench of this Court had further directed the respondents to comply with the Tribunal's order, which includes extension of monetary benefits.

7. In this background, it would not be now open to the petitioners to rely on any other regulation for overcoming an order passed by the Tribunal, which has attained its finality. Subsequently, the ground of delay and latches may not be applicable to the instant case, since the second respondent herein has reasonable explanation for not challenging the original rejection order dated 25.03.2014. According to the second respondent, several representations were made to the petitioners to comply with the order of the Tribunal, as well as the order of the Court and it is also claimed that favourable recommendation was also made for such compliance.

8. We are of the view that the second respondent herein has a reasonable explanation for not challenging the original rejection order for

4 years and when such explanation is available, the ground taken by the learned Standing counsel for the petitioners on delay and latches, is unsustainable. The Tribunal in its impugned order had properly analysed this case and had set aside the rejection order dated 25.03.2014.

9. Therefore, we find no grounds to interfere with the order of the Tribunal. Accordingly, this Writ Petition stand dismissed. No Costs. Consequently, connected miscellaneous petition is closed.

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

10.03.2025

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

To

1. The Central Administrative Tribunal
Rep. by its Registrar,
City Civil Court Buildings,
Chennai 600 104

2.The Public Prosecutor,
High Court, Madras.

M.S.RAMESH, J.
and
N.SENTHILKUMAR, J.

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