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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 22.01.2026

PRONOUNCED ON : 19.02.2026

CORAM

**THE HONOURABLE MR JUSTICE C.V. KARTHIKEYAN
AND
THE HONOURABLE MR.JUSTICE K.KUMARESH BABU**

**WP No. 8658 of 2025
and
WMP No.9683 of 2025**

1. Union of India
Rep.by Revenue Secretary to the Government of India,
Ministry of Finance,
Department of Revenue, New Delhi.
2. The Chairman CBEC
HUDCO Vishala Building,
Bhikaji Cama Palace, New Delhi.
3. The Chief Commissioner of Central Excise(CCA)
Chennai Zone, 26/1, Mahathma Gandhi Road,
Nungabakkam, Chennai.
4. The Commissioner of Central Excise,
Tractor Road, NGO A Colony, Tirunelveli.

Petitioner(s)

Vs

S. Annanda Padmavathi

Respondent(s)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of certiorari calling for the records from the Central Administrative Tribunal, Chennai, relating to its order dt.05.12.2024 in O.A.No.1505 of 2016 filed by the Respondent and to quash the same as illegal, arbitrary, without jurisdiction.



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For Petitioner(s): Mr.K.Srinivasa Murthy
Central Government Standing Counsel

For Respondent(s): Mr.N.Santhosh for
M/s. V.Srimathi

ORDER

(Order of the Court was made by C.V.Karthikeyan, J.)

The respondents in OA No.1505 of 2016, on the file of the Central Administrative Tribunal, Chennai, aggrieved by an order dated 05.12.2024 are the writ petitioners herein.

2.OA No.1505 of 2016 had been filed seeking a direction against the writ petitioners to withdraw the condition laid down in their letter dated 17.12.2008 that required a physical test to be undergone to hold the post of Inspector Central Excise and to confirm the respondent's promotion in the grade of Inspector and promote her to the grade of Superintendent from the respective dates of entitlements with consequential benefits.

3.It is the case of the respondent that she had joined the services as an Upper Division Clerk on 14.07.1994 under the disability quota. One post of Inspector of Central Excise was identified as a suitable position for disabled persons on 02.07.1999. However, a physical test for promotion to the post of Inspector was conducted. This was challenged in W.P (MD) No.9993 of 2007.



The High Court had directed the respondent's promotion to the post of Inspector of Central Excise on notional basis. In spite of such direction, the writ petitioners insisted the respondent to undergo a physical test again. This forced the respondent to file OA No.735 of 2011. The Tribunal had directed the writ petitioners to consider the case of the respondent in accordance with the notification. Thereafter, the respondent filed W.P.No.16349 of 2014 seeking confirmation of promotion to the post of Inspector. Even when the writ petition was pending, about 300 individuals, who were junior to the respondent were promoted to the post of the Superintendent of Central Excise. The respondent gave a representation, but she was reverted to her original post. Thereafter, W.P.No.16349 of 2014 was closed with a direction to the respondent to file an application before the Tribunal.

4.The Tribunal noted that the respondent had served for 8 1/2 years as Inspector and after that length of service, reverting her to the post of Senior Tax Assistant had caused serious prejudice to her. It was stated that reversion on the ground of her physical disability was a violation of Article 14 of the Constitution.

5.On the side of the writ petitioners, it was contended that the height and weight measurements of the respondent was examined and the height was



recorded as 142 cm and weight as 59 kg. As per the Recruitment Rules 2002, for the post of Inspector of Central Excise, the required height and weight for women in the General category were 152 cm and 48 kg respectively. It was contended that the respondent did not meet the minimum height requirement. It was therefore contended that she was not eligible or suitable to be promoted to the post of Inspector.

6. On consideration of the rival submissions, the Tribunal placed reliance on Sections 32 and 33 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, and held that the respondent should not have been declared to be ineligible to be promoted to the post of Inspector. It was further observed that the respondent had been notionally appointed as Inspector of Central Excise and had served in that role for more than eight years and her Annual Performance Appraisal Report (APAR) reflected excellent performance. She was also recognized as an honest officer. Taking all these facts into consideration, the Tribunal allowed the application and directed the writ petitioners to consider the respondent's claim for promotion to the post of Inspector of Central Excise and Customs under the Physically Handicapped category without enforcing the height requirement. It was also directed that she should be considered as promoted from 19.12.2002 when she was previously granted notional promotion to the grade of Inspector



by office order dated 21.05.2008 and also grant consequential benefits.

Challenging that order, the respondents in OA No.1505 of 2016 have filed the present writ petition.

7.Mr.K.Srinivasa Murthy, learned Central Government Standing Counsel pointed out that the conditions relating to promotion to the post of Inspector require a physical standard for eligible candidates and for women candidates, the minimum height had been prescribed at 152 cm and the weight at 48 kg. The height was relaxed for certain categories like Garhwalis, Assamese, Gorkhas and members of the Scheduled Tribes. It was stated that no one else can claim relaxation in the height. It was pointed out by the learned Central Government Standing Counsel that the respondent herein fell short in height by about 10 cm and therefore, by no stretch could that disqualification be relaxed and promotion to the post of Inspector be granted. It was further contended that Orthopaedically Handicapped persons could seek special reservations only in Direct Recruitment and reservation shall be applicable with effect from 31.05.2001 upto 11.12.2003, on which date, the post of Inspector was reclassified as Group-B non-gazetted post and that therefore, no reservation shall be applicable thereafter since according to DoP&T instructions, reservations are applicable only for Group – C & D posts only. This had been very categorically stated in the instructions issued by the Ministry of Finance,



Department of Revenue, Central Board of Excise and Customs, dated 25.09.2007. This was further reiterated by further instructions issued on 11.03.2008, wherein, it had again been stated that no reservation shall apply as per the DoP & T's guidelines. It was stated that the candidates recruited/promoted under physically handicapped category may be allowed to join provisionally subject to their passing the physical test at a later stage, after fresh physical parameters for this category are evolved in consultation with NIOH, Kolkata. It was under those circumstances that the respondent being found ineligible to continue to hold the post of Inspector had been reverted to the post of Senior Tax Assistant. The learned Counsel assailed the order of the Tribunal and stated that the said order must be set aside and the writ petition should be allowed.

8.The learned counsel for the respondent however claimed that the writ petitioners had failed to consider the provisions of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995. It was contended that an obligation was placed on the Government to identify posts which could be reserved for persons with disabilities and such posts should be periodically reviewed and identified and updated. Under Section 33 of the Act, not less than 3% of the posts should be kept reserved for persons with disability. The learned counsel further contended that the service records of the respondent during her tenure reflected excellent performance and the shortage in height had not affected her quality, or adherence to work ethics and

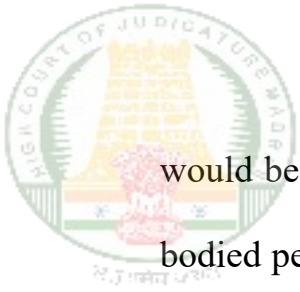


it was contended that the Tribunal had considered all aspects and had correctly directed that she should be considered as eligible for the post of Inspector. It was contended that the writ petition should be dismissed.

9. We have carefully considered the arguments advanced and perused the material records.

10. The respondent herein had initially joined services in the Central Excise Department as Upper Division Clerk on 14.07.1994 under the disability quota. This naturally indicated that the writ petitioners were aware that they had offered her a post in their Department with knowledge that she suffered from disability. Having inducted her into service, the writ petitioners now take a stand that she would be ineligible for further promotion owing to the disability suffered by her. The disability suffered by her had in no manner affected her day to day activities. She did not have any physical disability which impaired either her movements or her mental capabilities. She was short in height.

11. She had launched a litigation to be considered as eligible to be promoted as Inspector of Central Excise. It is her case that on 02.07.1999, one post of Inspector, Central Excise had been identified as a suitable post for disabled persons. Since she had been recruited under the disability quota, it



would be highly impossible for her to overnight attain the standards of an able-bodied person. The disability, which infact cannot be termed as disability at all, namely, shortness in height, would be carried by her throughout her life. We hold that she should not be put into disadvantage owing to that fact. The physical standards which had been put in place by the writ petitioners are for persons who are not classified as disabled.

12.The writ petitioners however relied on circulars issued in the years 2001, 2003 & 2011 to justify disentitlement of the respondent to be considered for promotion to the post of Inspector. The circulars relied on by the learned Standing Counsel are dated 25.09.2007 and 11.03.2008. But the Parliament had introduced the Rights of Persons with Disabilities Act in the year 2016. This Act had been introduced to give effect to the United Nations Convention on the Rights of the Persons with disabilities to which, this country is a signatory. We hold that the Act does not deal with the obligations of an employer *vis-a-vis* a person with disabilities, but the rights of the persons with disabilities to be considered equally with other individuals in so far as public employment and other aspects are concerned. We further hold that there has got to be necessary reservation given for such class of persons. They will have to be treated equally with those whom the Department considers as eligible for the post of Inspector. The scope and object of this Act provides respect for inherent dignity, non



discrimination, to provide full and effective participation and inclusion in society and acceptance of persons with disabilities as part of human diversity, equality of opportunity and accessibility and the right and respect to preserve their identity.

13.The Scope and object of the Act are as follows:

An Act to give effect to the United Nations Convention on the Rights of Persons with Disabilities and for matters connected therewith or incidental thereto.

WHEREAS the United Nations General Assembly adopted its Convention on the Rights of Persons with Disabilities on the 13th day of December, 2006.

AND WHEREAS the aforesaid Convention lays down the following principles for empowerment of persons with disabilities,—

(a) respect for inherent dignity, individual autonomy including the freedom to make one's own

choices, and independence of persons;

(b) non-discrimination;

(c) full and effective participation and inclusion in society;



(d) respect for difference and acceptance of persons with disabilities as part of human diversity and humanity;

(e) equality of opportunity;

(f) accessibility;

(g) equality between men and women;

(h) respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities;

AND WHEREAS India is a signatory to the said Convention;

AND WHEREAS India ratified the said Convention on the 1st day of October, 2007;

AND WHEREAS it is considered necessary to implement the Convention aforesaid.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

14.As a matter of fact, nearly 20 decades earlier to this enactment, the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, had been introduced and an Expert Committee had been constituted on 02.07.1995. This was under the powers conferred under Section 32 of the Act. The remit of the Committee was to identify posts which can be reserved for persons with disabilities in Groups A, B, C and D in the



Ministries, Departments and Public Sector Undertakings. Under this exercise, one post of Inspector was reserved for persons with disabilities. It is not the case of the writ petitioners that the respondent was otherwise ineligible to be considered to promotion to the post of Inspector. Her service records had categorised her as Excellent not in the post of Assistant Senior Tax Assistant, but in the post of Inspector, which she had held owing to the orders of the Court though notionally. The writ petitioners had no grievance over the nature of her work ethics, or the work output of the respondent. There cannot be an argument put forward that only those who qualify in the physical standards would discharge an honest work or would adhere to the requisite requirements to maintain the dignity to the post of the Inspector. The respondent had maintained dignity and sanctity of that particular post. We hold that the circulars relied on had become archaic owing to the introduction of the Rights of Persons with Disabilities Act 2016.

15. Section 20 of the said Act is as follows:

20. Non-discrimination in employment.—

(1) No Government establishment shall discriminate against any person with disability in any matter relating to employment:

Provided that the appropriate Government may, having regard to the type of work carried on in any establishment, by notification and subject



to such conditions, if any, exempt any establishment from the provisions of this section.

(2) Every Government establishment shall provide reasonable accommodation and appropriate barrier free and conducive environment to employees with disability.

(3) No promotion shall be denied to a person merely on the ground of disability.

(4) No Government establishment shall dispense with or reduce in rank, an employee who acquires a disability during his or her service:

Provided that, if an employee after acquiring disability is not suitable for the post he was holding, shall be shifted to some other post with the same pay scale and service benefits:

Provided further that if it is not possible to adjust the employee against any post, he may be kept on a supernumerary post until a suitable post is available or he attains the age of superannuation, whichever is earlier.

(5) The appropriate Government may frame policies for posting and transfer of employees with disabilities.

16. Section 21 reads as follows:

21. Equal opportunity policy.—(1) *Every establishment shall notify equal opportunity policy detailing measures proposed to be taken by it in*



pursuance of the provisions of this Chapter in the manner as may be prescribed by the Central Government.

(2) Every establishment shall register a copy of the said policy with the Chief Commissioner or the State Commissioner, as the case may be.

17.A perusal of the directions and obligations show that no Government establishment shall discriminate against any person with disability in any matter relating to employment. Section 20 (3) extracted above very specifically states that no promotion shall be denied to a person merely on the ground of disability. The respondent having been inducted in the services under the disability quota cannot be denied promotion on the ground that she was disabled. Such denial defies logic.

18.It is not the case of the writ petitioners that the respondent had acquired the disability during the course of employment, which would be a reasonable ground for them to place her in an alternate post and not in the post to which she was eligible to be promoted.

19.Further, under Section 21 of the Act, every establishment which would also include the writ petitioners' establishment shall and should have notified an equal opportunity policy detailing measures proposed to be taken in pursuance



to the provisions of the Chapter IV of the Act, which relates to skill development and employment.

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20. The provisions of this enactment also had been earlier stipulated in the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, wherein Sections 32 and 33 read as follows:

"32. Identification of posts which can be reserved for persons with disabilities. - Appropriate Governments shall-

(a) identify posts, in the establishments, which can be reserved for the persons with disability;

(b) at periodical intervals not exceeding three years, review the list of posts identified and up-date the list taking into consideration the developments in technology."

"33. Reservation of posts. -Every appropriate Government shall appoint in every establishment such percentage of vacancies not less than three per cent, for persons or class of persons with disability of which one per cent, each shall be reserved for persons suffering from-

(i) blindness or low vision;

(ii) hearing impairment;



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(iii) locomotor disability: in the posts identified for each disability:

Provided that the appropriate Government may, having regard to the type of work carried on in any department or establishment, by notification subject to such conditions, if any, as may be specified in such notification, exempt any establishment from the provisions of this section.”

21.As a matter of fact, the Director, AD.III.B., in F.No.A-12034/62/2005-Ad.III(B) of the Government of India, Ministry of Finance, Department of Revenue, Central Board of Excise and Customs, had addressed a communication to all Chief Commissioners of Central Excise, all Chief Commissioners of Customs, and all Directors General/ Directors under CBEC that the Board had decided that even the persons with one leg affected, one arm affected, or partially hearing impaired (with the use of assistive devices) are eligible to be considered for appointment or promotion to the posts of Inspector, Preventive Officer or Examiner, against the 3% quota reserved for physically handicapped persons in the Central Excise and Customs Departments.

22.It had been stated that this particular communication had clarified that such reservations could not be extended to those who hold Group B post and could be applied only to Group C and D posts. We hold such restriction violates



all the principles of equality, which is the fulcrum of the Constitution and the right of every citizen to be considered equal with each other in terms of employment and in terms of being considered equally, if other factors are equal.

23.The very fact that the respondent discharged her duty as Inspector for a period of 8 1/2 years with her appraisal showing her performance as excellent is a very significant factor to be considered and relevant. We hold that the respondent had been unlawfully discriminated again by the writ petitioners. Such discrimination cannot be permitted, has to be prohibited and is prevented by us.

24.We find no merit in this writ petition. The writ petition stands dismissed. No costs. The respondents are directed to comply with the directions of the Tribunal within a period of six weeks from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is also closed.

(C.V.K.J.,) (K.B.J.,)
19.02.2026

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Speaking/Non-speaking order
Internet:Yes
Neutral Citation:Yes/No
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To
The Central Administrative Tribunal, Chennai.

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**C.V.KARTHIKEYAN, J.
AND
K.KUMARESH BABU, J.**

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**Pre-delivery Order in
WP No. 8658 of 2025**

19.02.2026