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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08-06-2026

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THE HON'BLE MR JUSTICE S. M. SUBRAMANIAM

AND

THE HON'BLE MRS.JUSTICE R. KALAIMATHI

Writ Petition No.22221 of 2023

and

W.M.P.No.21606 of 2023

1. The Secretary
Department of Revenue,
North Block, New Delhi- 110 001.
2. The Commissioner of Central Excise,
Central Revenue Building,
5a, Main Road, Ranchi.

..Petitioners

Vs

1. T.S.Jeyachandar
Joint Commissioner of Central Excise (Retired)
No.11, 51st Street, Ashok Nagar,
Chennai- 600 083.
2. The Central Administrative Tribunal,
Chennai Bench, City Civil Court Building,
Chennai 600 104.

..Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Certiorari calling for the records of the first respondent dated 10/03/2023 in OA No.1152/ 2013 and quash the same.

For Petitioners : Mr.K.Srinivasamurthy
Senior Panel Counsel

For Respondents : Mr.Karthikrajan
for M/s.Menon, Karthik, Mukundan &
Neelakandan [R1]
Tribunal [R2]



ORDER

(Made by S.M.Subramaniam J.)

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The writ on hand has been instituted to assail the order of the Central Administrative Tribunal, Chennai Bench, dated 10.03.2023 in O.A.No.1152/2013.

2. Union of India, the Secretary, Department of Revenue along with Commissioner of Central Excise, preferred the present writ petition mainly on the ground that the name of the first respondent was not found in the final seniority list published in pursuance to the orders passed by the Courts and therefore, *ad hoc* promotions granted during the pendency of litigations would not confer any right to the first respondent to claim further promotion to the post of Assistant Commissioner, Customs and Central Excise. Since the Tribunal has not considered the factual issue relating to finalization of seniority list, which was pending due to litigation, the Union of India has preferred the present writ petition.

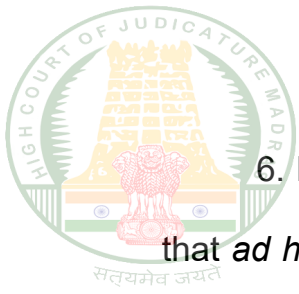
3. The first respondent filed original application seeking relief to promote him as Additional Commissioner in NFSG grade/scale notionally along with 1990 batch promote Assistant Commissioners or to upgrade the first respondent's pay to NFSG grade/scale under non-functional financial upgradation order of DOPT with effect from 01.07.2006 or to promote the first respondent as Additional Commissioner in the pay of NFSG as he completed



13 years of service as Assistant Commissioner. Two alternate reliefs claimed by the first respondent would show that the seniority list was not finalized while granting promotions to Assistant Commissioner, Deputy Commissioner and Joint Commissioner on *ad hoc* basis.

4. The facts in brief would show that the first respondent was appointed on 18.09.1974. He was promoted as appraiser on 24.03.1983 and to the post of Assistant Commissioner on *ad hoc* basis with effect from 17.01.1990. He was promoted to the post of Deputy Commissioner on *ad hoc* basis with effect from 17.01.1994 and to the grade of Joint Commissioner on *ad hoc* basis with effect from 29.04.2005. Pertinently, the first respondent voluntarily retired from service with effect from 31.10.2008, which was accepted by the Department *vide* Notification No.50/2008 dated 23.10.2008.

5. Learned counsel for the first respondent would mainly contend that the first respondent was holding the post of Assistant Commissioner with effect from 17.01.1990 and therefore, on completion of 13 years of service, he should have been considered for the post of Additional Commissioner on par with his juniors. *Ad hoc* promotion was granted to several such officials and therefore, right of promotion to the post of Additional Commissioner could not have been denied by the writ petitioners. Thus, the order under challenge passed by the Central Administrative Tribunal is in order and to be affirmed.



6. Learned Senior Panel Counsel for Central Government would submit that *ad hoc* promotions to various cadres are granted during the pendency of litigations regarding the seniority dispute. The seniority list was admittedly not finalised when the first respondent was promoted to the post of Assistant Commissioner on *ad hoc* basis with effect from 17.01.1990. Thus, all such subsequent promotions on *ad hoc* basis to the post of Deputy Commissioner and Joint Commissioner is subject to the final seniority list to be published after disposal of the cases pending before various Courts across the country. After finalization of the seniority list, the department found that the name of the first respondent was not found in the final seniority list and therefore, his case was not considered for further promotion to the post of Additional Commissioner. Learned Senior Panel Counsel would further submit that the revised seniority list for Assistant Commissioners was published on 27.02.2013. However, the department found that the first respondent was voluntarily retired from service on 31.10.2008. Even otherwise also, he has not completed 13 years of service as on the date of his voluntary retirement and therefore, the Tribunal ought not to have considered his case for promotion to the post of Additional Commissioner. Regarding the benefit attached to the non-functional selection grade for the post of Additional Commissioner is concerned, the first respondent is not eligible for promotion to the post of Additional Commissioner in view of the publication of final seniority list made pursuance to the orders of this Court and therefore, his claim deserves no merit consideration.



7. Learned Senior Panel Counsel stated that during the process of regularization, the case of the first respondent could not be regularised in the grade of Assistant Commissioner till the vacancy year 1996-97. However, in the review DPC of 1996-97, the findings of the DPC were placed in a sealed cover. In the same review DPC, the first respondent's juniors viz., Shri D.S.Negi, Raj Kumar Bhagat and Sheo Shankar Mahli were promoted to the grade of Assistant Commissioner on regular basis. Even assuming that the first respondent would have been regularized in that year, even then he would not be eligible for NFSG before 01.01.2009. Since the first respondent had voluntarily retired from service on 31.10.2008, he could not have been granted NFSG.

8. The above vital facts and the crucial decisions were not taken into consideration by the Central Administrative Tribunal. The Central Administrative Tribunal proceeded merely based on the fact that the first respondent was promoted to the post of Assistant Commissioner with effect from 17.01.1990. However, such promotion was on *ad hoc* basis and subsequent promotions to the post of Deputy Commissioner and Joint Commissioner were also on *ad hoc* basis subject to publication of final seniority list, which was made subsequently after disposal of cases pending before the Courts across the country. Therefore, the findings of the Central Administrative Tribunal is running counter to the required facts, which are also necessary to decide the issue.



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**S.M.SUBRAMANIAM, J.
AND
R.KALAIMATHI, J.**

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Accordingly, the impugned order passed by the Central Administrative Tribunal, Chennai Bench, dated 10.03.2023 in O.A.No.1152/2013, is set aside and the writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

**(S.M.S.,J.) (R.K.M.,J.)
08-06-2026**

Index: Yes
Speaking order
Neutral Citation: Yes/No

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To
The Central Administrative Tribunal,
Chennai Bench,
City Civil Court Building,
Chennai 600 104.

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