CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH

OA No. 749/2021

HYDERABAD, this the 25th day of February, 2022

Hon'ble Mr. Ashish Kalia, Judl. Member
Hon'ble Mr. B.V. Sudhakar, Admn. Member

1. N.J Pradeep Kumar, S/o. N V Jagannath (Late),
Aged about 54 years, Group B,
Occ:Executive Assistant, Central GST,
O/o. Assistant Commissioner, Saroornagar GST Division,
Ranga Reddy Commissionerate.
R/o. Plot No. 49, Anitha Enclave, Jawaharnagar, JJ Nagar (PO),
Secunderabad - 500087.

2. Bagurupalli Sankararao, S/o B.Ramulu (Late),
Age about 36 years, Group B,
Occupation: Executive Assistant,
O/o. The Principal Commissioner of Central Tax,
Visakhapatnam CGST Commissionerate,
Port Area, Visakhapatnam-530035.
R/o. Door No.44-31, Gavara Street, S.Kota,
Vizianagaram, AP-535145.

3. Goli Ravikumar, S/o Goli Subbarao
Age about 39 Years
Occ:Executive Assistant
O/o. The Commissioner, GST & Customs,
GUNTUR CGST Commissionerate, Guntur.
R/o.D.No. 13-15-627, 1st lane,
Krishna Nagar, GUNTUR-522006.

4. Ashok Kumar Pradhan, S/o Late Rangadhar Pradhan,
Aged about 42 years, Group B,
Occ: Executive Assistant of Central Tax,
O/o The Commissioner,
Visakhapatnam CGST Commissionerate,
Visakhapatnam, GST Bhavan,
Port Area, Visakhapatnam - 530035.
R/o. Central Revenue Quarters, D.No. 14-2-2/8,
Quarter No. Type II/8,
Sand Hills, Maharanipeta, Pandimetta Junction,
Visakhapatnam-530002.

...Applicants.

(By Advocate : Mr. M V Krishna Mohan)

Vs.

1. The Union of India,
The Chief Commissioner of Central Tax,
Hyderabad Zone,
Central Tax Bhavan,
1st floor, Opp. L. B.Stadium,
L.B.Stadium Road,
Basheerbagh, Hyderabad,
Telangana-500004.

2. The Chief Commissioner,
Central GST & Customs,
Visakhapatnam Zone, Visakhapatnam.

3. The Principal Commissioner (CCA),
Central Tax and Customs,
Hyderabad GST Commissionerate,
Kendriya Shulk Bhavan,
2nd floor, Opp.L.B.Stadium,
L.B.Stadium Road,
Basheerbagh, Hyderabad,
Telangana-500004.

…Respondents.

(By Advocate: Mr. G Rajesham, Sr. PC for CG)

ORAL ORDER
(As per Hon'ble Mr. Ashish Kalia, Judl. Member)

Through Video Conferencing:

This Original application has been filed under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:

> *"That this Hon'ble Tribunal may be pleased to declare the delay and inaction on the part of the respondents in conducting the DPC for the year 2021 in time i.e. before 31.12.2020 to cadre of Administrative Officer from the cadre of Executive Assistant as therefore arbitrary, illegal and unjust and consequently, direct the respondents to conduct DPC in the cadre of Administrative Officer and accordingly promote the applicants w.e.f. 01.01.2021 with all consequential benefits and pass such other order or orders as this Hon'ble Tribunal may deem fit and proper in the interest of justice."*

2. The brief facts of the case are that the applicants were initially appointed as Tax Assistants in the respondents' organization and, subsequently, they were promoted as Senior Tax Assistants w.e.f. 20.05.2015. The respondents issued Establishment Order No.71 of 2016 dt. 29.03.2016 stating that all the officers in the grade of Deputy Office Superintendent(DOS) and Senior Tax Assistant(STA) working in combined cadre of Hyderabad & Vizag Zone are re-designated as "Executive Assistant" w.e.f. 28.09.2015. The respondents have published a draft seniority list in the cadre of Executive Assistants of Central Tax and Customs, Hyderabad and Vizag Zone Commissionerates vide letter dt. 18.08.2020. The applicants have passed the requisite departmental examination and have five years of regular service in the grade of Executive Assistants. The Eligibility criteria for the post of Administrative Officer is "Executive Assistant under the Central Board of Indirect Taxes and Customs in Level-6

with five years regular service in the grade and have successfully completed training for 2-4 weeks from the Institute or organization as specified by the Central Board of Indirect Taxes and Customs". The Respondent No.3, vide letter dt. 01.10.2020 asked the concerned authority to forward the particulars of the respective Executive Assistants and the same were forwarded. The applicants state that, on completion of the process, the respondents ought to have conducted Departmental Promotion Committee(DPC) meeting for promoting the applicants from the cadre of Executive Assistants to the cadre of Administrative Officer before 31.12.2020 but the said DPC was not held as per the schedule. The applicants made detailed representations to the respondents requesting to conduct DPC but there is no response. The applicants have also brought to the notice of the respondents that, in other zones, the DPCs for promotion to the post of Administrative Officer were completed prior to 31.12.2020. Feeling aggrieved of the action of the respondents in not conducting DPC as per the schedule, the applicants have approached this Tribunal for redressal of their grievances.

3. Notices were issued. The respondents have filed reply. In their reply, it is submitted that restructuring of cadre was taken place in the year 2013 and during the cadre restructuring, the posts of the then Senior Tax Assistants(STA) and Deputy Office Superintendent(DOS) were merged and the post of Executive Assistant(EA) was created vide order dt. 18.12.2013. Prior to cadre restructuring, the cadre of Senior Tax Assistant(STA) was governed

by a separate Recruitment Rules of 2003 which are referred as Old Rules. As per the said rules, Tax Assistants with three years of regular service in the grade and having passed the departmental examination specified by the Competent Authority from time to time were eligible for promotion. The Recruitment Rules for the post of Executive Assistant(Post newly created on 18.12.2013 by merging STA and DOS) are Tax Assistants with ten years of regular service in the grade and having passed the departmental examination as specified by the competent authority from time to time are eligible for promotion. It is admitted by the respondents that they have duly notified the vacancies. It is further stated that the officers promoted in the year 2017, who were juniors to the applicants in the present OA, approached this Bench of the Tribunal and filed OA No.1456/2019 and vide interim order dt. 26.07.2019, this Tribunal directed the respondents not to revert the applicants to the lower post for a period of fourteen days. Subsequently, Vide order dt. 13.08.2019, interim order was extended till next date of hearing. Later on, on receipt of directions from the Board, a transfer petition was filed and the said OA was transferred to Principal Bench of this Tribunal. As the juniors were promoted to the post of Senior Tax Assistant(STA) in the year 2017 on ad-hoc basis, the matter is sub judice before the Principal Bench of this Tribunal and they are continuing in the promoted cadre i.e. Executive Assistant. It is further submitted that the feeder cadre promotions ordered to the applicants are found to be disputed in the light of Board’s Letter dt. 06.01.2021 and based on disputed qualifying service of the feeder cadre, further promotion to the Administrative Officer promotions could not be taken up by the department.

4. Heard the counsels for the parties at length and perused the pleadings on record.

5. We are of this view that promotion is a bonafide expectation of an employee who is otherwise eligible and qualified for the same. The applicants herein are claiming that they are eligible to be considered for the post of Administrative Officer and they have qualified the requisite examination. The Department has not come out with any cogent reasons why the DPC could not be held for the said post. In view of this, the respondents are directed to conduct DPC from the existing cadre for the eligible candidates, including the present applicants in terms of new recruitment rules which are applicable for the post of Administrative Officer. This exercise shall be completed preferably within a period of three months from the date of receipt of certified copy of this order.

6. With the above observation, the OA is disposed of without any order as to costs.

(B.V. SUDHAKAR)
ADMINISTRATIVE MEMBER

(ASHISH KALIA)
JUDICIAL MEMBER

/Ram/