

**CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH**

**OA No. 818/2020**

HYDERABAD, this the 24<sup>th</sup> day of November, 2022



**Hon'ble Mr. K V Eapen, Admn. Member**  
**Hon'ble Mr. Sudhi Ranjan Mishra, Judl. Member**

A Chandra Sekhara Reddy, S/o. A. Eswara Reddy,  
Aged about 43 yrs.,  
Occ: Joint Commissioner, Emp Code: 3036DR,  
O/o. The Customs Preventive Commissionerate,  
Vijayawada- 520 007.

...Applicant.

(By Advocate: Mr. K Sudhaker Reddy)

Vs.

1. The Govt. of India,  
Rep. by its Revenue Secretary,  
Department of Revenue, Ministry of Finance,  
Central Board of Indirect Taxes and Customs,  
North Block, New Delhi- 110 001.
2. Central Board of Indirect Taxes and Customs,  
Rep. by its Chairman,  
North Block,  
New Delhi- 110 001.

...Respondents.

(By Advocate: Mrs. K Rajitha, Sr.PC for CG)

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**ORAL ORDER**  
**(As per Hon'ble Mr. K V Eapen, Admn. Member)**

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



“That this Hon'ble Court be pleased to declare the Office Order No.134/2020 dt. 11.11.2020 to the extent of subjecting the promotion of the applicant to the grade of Joint Commissioner of Customs and Central Excise(a) to the outcome of SLP before the Hon'ble Supreme Court against order in WP No.13721 of 2019 dt. 17.02.2020 filed against OA No.159 of 2019 dt. 22.04.2019 and (b) to the condition of penalty if any, in the disciplinary proceedings vide Charge Memo No.21 of 2017 dt. 12.06.2017 without considering the representations of the applicant dt. 04.06.2020 and 09.09.2020 as illegal, arbitrary and violative of Article 14 & 16 of the Constitution of India in view of the orders in OA No. 1082 of 2018 dt. 02.12.2019 and consequently direct the respondents to promote the applicant to the post of Joint Commissioner of Customs and Central Excise w.e.f. 08.04.2016 i.e. the date on which applicants batch mates were promoted as Joint Commissioner will all consequential benefits and pass such other orders as this Hon'ble Court shall deem fit and proper in the circumstances of the case.”

2. I) The brief facts of the case are that the applicant is currently working as Joint Commissioner in the respondents' organization. The applicant, while working as Deputy Commissioner, was issued with a Charge Memorandum under Rule 16(1)(a) of CCS(CCA) Rules, 1965 on 30.07.2015. The applicant submitted his statement of defence to the said memorandum on 16.09.2015. At this stage, the Respondent No.1, vide Office Order dt. 08.04.2016, issued promotions to the grade of Joint Commissioner of Customs and Central Excise. It is submitted that the juniors to the applicant were promoted and the applicant's case was kept in a **sealed cover** in view of the charge memorandum. Aggrieved over the delay in finalizing the departmental proceedings, the applicant filed OA/1002/2016

before this Tribunal which was disposed of on 21.09.2016 directing the respondents to pass final orders within 45 days. At this stage, the applicant was issued with another Charge Memorandum No. 21 of 2017 on 12.06.2017 under Rule 14 of CCS(CCA) Rules, 1965. After a lapse of nearly two years, vide Proceedings dt. 19.06.2018, the respondent No.1 imposed punishment of Censure on the applicant, pursuant to the charge memorandum dt. 30.07.2015. Against the punishment of Censure, the applicant filed OA/1082/2018 before this Tribunal and the same was allowed on 02.12.2019, setting aside the said punishment. The respondents challenged the order of this Tribunal in OA/1082/2018 before the Hon'ble High Court of AP and it was dismissed on 17.02.2020.



II) The applicant has also filed OA/997/2018 before this Tribunal for the delay in finalizing the departmental proceedings pursuant to charge memorandum dt. 12.06.2017 which was disposed of on 12.10.2018 directing the respondents to conclude the departmental proceedings within two months. Thereafter, as the respondents did not conclude the departmental enquiry with regard to the second charge memorandum dt. 12.06.2017, the applicant filed OA/159/2019 before this Tribunal for promotion to the cadre of Joint Commissioner. This Tribunal, vide Order dt. 22.04.2019, allowed the OA directing the respondents to consider the case of the applicant for promotion to the post of Joint Commissioner, notwithstanding the pendency of Charge Memorandum dt. 12.06.2017 and pass appropriate orders within a period of eight weeks and also directed to open the sealed cover for the purpose of considering promotion. This

order was also confirmed by the Hon'ble High Court of AP in W.P. No.13721 of 2019 dt. 17.02.2020. Thereafter, the applicant filed CP/100/2019 in OA/159/2019 for non-implementation of the order of this Tribunal. The departmental proceedings in Charge Memo dt. 12.06.2017 are still pending at this stage.



III) Complying the order of this Tribunal, the Respondents issued Office Order No.134/2020 dt. 11.11.2020 promoting the applicant as Joint Commissioner with two conditions viz., the promotion shall be subject to the outcome of the SLP being filed before the Hon'ble Supreme Court against the orders of the Hon'ble High Court in WP No.13721 of 2019 dt. 17.02.2020 and also to the penalty, which the respondents may impose on conclusion of the disciplinary proceedings vide Charge Memo No.21 of 2017 dt. 12.06.2017. It is submitted that the said office order dt. 11.11.2020 was issued without considering the representations of the applicant dt. 04.06.2020 & 09.09.2020. Aggrieved over the same, the applicant has filed the present OA.

IV) The applicant's counsel has submitted that as the punishment of censure was set aside, the applicant is eligible for promotion to the cadre of Joint Commissioner w.e.f. 08.04.2016, without any conditions. He prayed to allow the OA.

3. I) Notices were issued. The respondents have filed their reply. It is submitted that, as per this Tribunal's Order in OA/1082/2018 dt. 02.12.2019, the case of the applicant was considered, notwithstanding the pendency of Charge Memo No.21/2017 and the applicant was promoted to the cadre of Joint



Commissioner vide Order dt. 11.11.2020, subject to the conditions mentioned in the said order. Today, the respondents' counsel has filed a Letter of the Central Board of Indirect Taxes & Customs dt. 02.09.2022 which was addressed to the Commissioner of Customs(Preventive), Vijayawada. In the said letter, it is informed that the SLP No.10796/2021 filed by the respondents, challenging the Order of the Hon'ble High Court in WP No.13721 of 2019 dt. 17.02.2020, was dismissed by the Hon'ble Supreme Court vide Order dt. 20.09.2021 at the admission stage. Consequently, the Disciplinary Authority, vide Order No.09/2022 dt. 03.02.2022, has exonerated the applicant from the disciplinary proceedings initiated vide Charge Memorandum No. 21/2017 dt. 12.06.2017. It is also informed in the said letter that ante-dation of the applicant's promotion to the grade of Joint Commissioner w.e.f. 08.04.2016 by way of opening of sealed cover is under process.

II) The respondents' counsel has submitted that this OA may be closed granting a reasonable time for the respondents for completing the process for promotion in the case of the applicant.

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

5. I) The Hon'ble Supreme Court has dismissed the SLP No.10796/2021 filed by the respondents and the Disciplinary Authority has exonerated the applicant from all the charges leveled against him. The applicant's counsel has submitted that he has no objection granting time to the respondents for completing the process of ante-dation of promotion in respect of the applicant. He further

submitted that the applicant is also entitled for any subsequent promotions, if he is otherwise eligible, consequent upon the opening of the sealed cover. He relied upon the judgment of the Hon'ble Supreme Court in the case of *Union of India & Ors. vs K.V. Jankiraman & Ors. decided on 27 August, 1991.*



II) In view of the above submissions, the respondents are directed to take necessary steps in connection with the sealed cover procedure in respect of the applicant for promotion, within a period of eight weeks from the date of receipt of a copy of this order. Consequent upon opening of the sealed cover and is promotion in case is granted, the applicant is entitled for subsequent promotions if he is otherwise eligible. The respondents are directed to take necessary steps accordingly. With the above directions, the OA is disposed of. Consequently, MA/421/2022 & 422/2022 stands closed. There shall be no order as to costs.

**(SUDHI RANJAN MISHRA)**  
**MEMBER(J)**

**(K V EAPEN)**  
**MEMBER(A)**

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