

From

S. VENKATESAN

Superintendent of Central Excise and GST(Retired)

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Chennai-18

To

- 1) The Chairman, CBIC, New Delhi
- 2) The Member (Admn), CBIC, New Delhi
- 3) The DG, DGHRD, CBIC, New Delhi.
- 4) The Chief Commissioner of Central Excise & GST/Customs, Tamil Nadu & Pondicherry Zone, Chennai
- 5) The Principal Commissioner, Chennai North Commissionerate.

/Through Proper Channel/

Sir/Madam,

Sub: Revision of Seniority list at Zonal Level and at All India Level – Based on N.R.Rarmar, applied through P.Bharathan case in this department – reg.

Kind reference is invited to my earlier representation dated 16/03/2017 addressed to The Principal Chief Commissioner of C.Ex. and GST, Chennai Zone with regard to revision of my seniority as per the N.R.Parmar Judgment of the Hon'ble Supreme Court of India (Copy enclosed). In this regard, I would like to place before your good selves, the following few points for an early decision in the matter:

- 1) I was recruited through the All India Exam conducted for Inspector of Income Tax, Central Excise, Preventive Officers and Examiners of Customs, conducted by the Staff Selection Commission of India. The advertisement for the said exam was issued sometime in 1984 and the written exam was conducted on 11/11/1984. Upon offer of appointment vide C.NO. II/31/2/85-Estt.Vol.II dated 18/10/1985 issued by the Collector Of Central Excise, Coimbatore, I joined as Inspector of Central Excise in the Coimbatore Zone on 14/11/1985 and my Seniority in the Inspector Grade was fixed as

1743 as per the Seniority List for the grade of Inspectors of Tamil Nadu Zone as on 01/01/1991.(Copy enclosed).

- 2) From the above Seniority List, it was found that my Seniority had been fixed only as per the year of my joining service and not as per the date on which the process of recruitment had been initiated, as clarified by the Hon'ble Supreme Court in the case of N.R.Parmar.
- 3) The matter for re-fixing of seniority had been pending due to the proceedings in the matter of P.Bharathan and others.
- 4) In P.Bharathan and others, the Hon'ble High Court of Madras had vide their judgment dated 25.04.2017 in W.P.Nos.5611 to 5613 of 2017 held interalia as below:

*"14. We have perused the orders passed by the Commissionerate of Delhi and Mumbai revising the seniority. **We have also perused the related orders passed by the Principal Bench of the Central Administrative Tribunal, dated 20.03.2007 in O.A. No. 2093 of 2005, the order dated 6.5.2014 in O.A. Nos. 692 and 741 of 2013 and the related judgment of the Mumbai High Court dated 22.09.2014 in W.P.No. 6784 of 2014.***

15. The issue raised by the employees in the original applications and relevant to the subject writ petitions, was the very same issue before the Mumbai Bench of the Central Administrative Tribunal in O.A. No. 741 of 2013. The Tribunal quashed the combined seniority list and directed the Commissionerate to prepare a fresh seniority list of Inspectors appointed by direct recruitment and promotes.

16. The matter was taken up by the Commissionerate of Customs, Mumbai before the Bombay High Court in W.P.Nos. 6784 and 6785 of 2014. Before the High Court, it was represented that the Commissionerate has already implemented the order passed by the Central Administrative Tribunal. The writ petitions were accordingly disposed of by the Bombay High Court by order dated 22 September 2014.

*21.**The Central Board of Excise and Customs must adopt a policy, uniform to all its employees irrespective of the Commissionerate....The discriminatory attitude shown by the Central Board of Excise and Customs made the employees to approach the Central Administrative Tribunal and that too to implement the law declared by the Hon'ble Supreme Court.**" (emphasis added)*

- 5) In the proceedings before the Hon'ble CAT, Mumbai, concluded in the Hon'ble High Court of Mumbai, cited in the above said judgment, the Hon'ble CAT had held interalia as below:

*"39.....This being the position, **the revised seniority list will have to be prepared by implementing the Parmar decision of the Hon'ble Apex Court in Parmar's case and ignoring the said clause (h) of clause 5 of the OM dated 04.03.2014"***

- 6) The CBIC had filed an SLP (No-4870-4871/2018) before the Hon'ble Supreme Court against the judgment of the Hon'ble High Court of Madras in the case of P. Bharathan and others raising a question of law as to whether

the benefit of N.R.Parmar interpretation would apply to those who had joined prior to 1986 since the judgment in N.R.Parmar related to the OMs dated 7.2.1986/3.7.1986 only. By the dismissal of the said SLP, on 25.09.2019 it has become clear that N.R.Parmar decision will be applicable to those who have joined before 1986 also. Accordingly the department has also revised the seniority of the original petitioners in the P.Bharathan case.

7) I as a member of my Association (presently known as All India Association of Superintendents of Central Tax and formerly known as the All India Association of Central Excise Gazetted Executive Officers) was awaiting a re-fixation of my seniority in terms of the judgment in the case of N.R.Parmar judgment since my Association was also a party in the P. Bharathan case in the Hon'ble Tribunal as well as up to the proceedings in the Hon'ble Supreme Court. However, in the meanwhile, by a judgment dated 19.11.2019 in the case of Meghachandra Singh the Hon'ble Supreme Court had set aside N.R.Parmar judgment. Presently the DoPT has issued OM No. 20011/2/2019-Estt(D) dated 13th of August, 2021 altering the method of fixing of seniority between DRs and PRs in terms of the observations in the judgment in the case of Meghachandra Singh and have also clarified that the changes would come into effect only from 19.11.2019.

Hence, it is requested that my seniority at the Zonal Level and consequently at the All India Level in the cadre of Superintendents may kindly be altered in terms of the OMs dated 7.2.1986/3.7.1986 as per which my seniority had been fixed, but erroneously based on the year of joining instead of as per the date of initiation of process of recruitment as interpreted by the Hon'ble Supreme Court in the case of N.R.Parmar.

Thanking you,

Yours faithfully,

Encl: As Above.

Chennai

(S. VENKATESAN)