

Lila Kanta Barua and Others

Vs

Collector of Customs and Central Excise, Shillong and Others

Writ Petition No. 511 of 1974

(V. R. Krishna Iyer, R. S. Pathak JJ)

18.10.1979

JUDGMENT

KRISHNA IYER J.

1. This is a hard case which cannot persuade us to make bad law; therefore, the petition has to fail.
2. The petitioners are Central Government employees of the Customs Department who complain that they find themselves below Customs Officers employed by the Tripura princely State, who came into the service of the Central Government (Customs Department), on the princely State being integrated with the Union of India. The reason for the former employees of the Tripura State being given seniority over the petitioners is that they have longer 'confirmed' service. The petitioners' contention is that continuous officiating service should be the guide-line and not the length of service after confirmation. These are matters of policy which government must have discretion to adopt. Indeed, government did change its policy from time to time after making an assessment of the situation with reference to administrative exigencies and overall justice. Unless something arbitrary, preserve, mala fide or extraneous or like factor, is imported into the policy of the government, the court cannot predicate a breach of Article 16. We are unable to see any such vitiating factor. We may also add that some what challenges were made in *Amrit Lal Berry v. Collector of Central Excise, New Delhi* ((1975) 4 SCC 714 : 1975 SCC (L&S) 412 : (1975) 2 SCR 960), and repelled. We are unable to accede to the contentions of the petitioners and dismiss the writ petition.
3. We feel strongly that petitioners deserve sympathy, for, long years of service without any promotion or prospect of promotion, will frustrate of a public servant and impair his efficiency. There must be a basic sense of justice and some hope of promotion lest the employees should become disenchanted with his work. Counsel represents that decades of service without any promotion has been the lot of several of the petitioners. We are sure that, on a proper representation being made to the Government of India, this aspect will be considered and by suitable adjustments a sense of Justice and contentment will be produced in the petitioners and those like them, so that the overall efficiency of the employees of the Customs Department may be maintained or improved. Subject to this observation, we dismiss the writ petition. There will be no order as to costs.

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