**(2018) 12 CAT CK 0182**

**Central Administrative Tribunal Principal Bench, New Delhi**

**Case No:** Original Application No. 4483 Of 2013, Miscellaneous Application No. 3437 Of 2013

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| Vijay Sharma And Ors | | APPELLANT |
| | Vs | |
| Union Of India Through Secretary And Anr | | RESPONDENT |

**Date of Decision:** Dec. 4, 2018

**Hon'ble Judges:** L. Narasimha Reddy, J; Aradhana Johri, Member (A)

**Bench:** Division Bench

**Advocate:** A.K. Behera, Ashok Kumar

**Final Decision:** Dismissed

**Judgement**

L. Narasimha Reddy, J

1. The applicants are the officers of the Indian Revenue Service of 1976 (applicants 1 and 2), and 1977 (applicant No.3) batches. They held various

positions in their Department.

2. Appointment of Members of the Central Board of Direct Taxes (CBDT) is governed by the â€œCentral Board of Direct Taxes (Chairman and

Members) Recruitment Rules, 2006â€ (for short, the Rules), as amended from time to time. The eligibility criteria are stipulated under the Rules. A

panel of officers is prepared on the basis of the recommendations of the selection committee. The panel with 8 names for the vacancies referable to

the year 2001-12 was prepared on the recommendations of the selection committee. The names of the applicants figured at serial numbers 6 to 8. The

life of the panel is one year, but within that time, the applicants were not appointed as Members of CBDT.

3. An officer appointed as Member of CBDT is placed in the apex scale of Rs.80,000/- (fixed). The applicants herein submitted representations on 18.06.2012 and 24.07.2012 to the respondents, stating that they are entitled to be extended the benefit of the apex scale on account of their inclusion in the panel. Since no reply was forthcoming, they filed OA No.539/2013 before this Tribunal. The OA was disposed of on 14.02.2013, directing the respondents to pass orders on the representation within a period of two months from the date of receipt of the copy of the order. In compliance with the same, the respondents passed an order dated 18.06.2013 refusing to accede to the request of the applicants. The same is challenged in this OA.

4. The applicants contend that the empanelment for appointment to the post of Member, CBDT is done on the same lines, as in the case of Secretaries in the Central Government services, for which the apex scale is allowed, and once an officer is included in such a panel, he is extended the benefit of apex scale, whether or not he is appointed. They contend that when such a benefit is being extended to the IAS and IPS officers, there is no reason why the same is denied to them.

5. The respondents filed a counter affidavit opposing the OA. They contend that the procedure for appointment to the post of Secretary in the Central Government services is governed by Central Staffing Scheme, whereas the appointment of the Members of CBDT is governed by the Rules, and that there is no similarity between them. It is also stated that the preparation of panel for appointment of Members of CBDT is not contemplated under the Rules, and it is only as a matter of convenience, and to avoid further delays, that the panel is prepared.

6. We heard Shri A. K. Behera, learned counsel for the applicant, and Shri Ashok Kumar, learned counsel for the respondents.

7. The applicants were included in the panel for appointment as Members of CBDT in the year 2011. The panel consisted of eight names, and only five of them were appointed as Members during the currency of the panel. It lapsed after expiry of one year. The post of Member of CBDT carries

the apex scale. The applicants contend that they too are entitled to be extended the same scale, and they cannot be denied the benefit, simply because their turn for appointment did not come.

8. The grant of apex scale, or, for that matter, any scale of pay, is required to be provided for under the relevant rules. The appointment to the post of Member, CBDT is governed by the Rules. The selection process is indicated, and composition of the selection committee is also provided for. In the ordinary course, the selection is to be undertaken only in respect of the existing vacancies. In such an event, the question of an officer who is included in the panel, not being appointed does not arise. However, the guidelines were modified providing for preparation of a panel of one and a half times the number of vacancies, to avoid the delay in making appointments against the vacancies which may arise within a short period. In other words, actual selection can be said to be only in respect of the existing vacancies, and the inclusion of other officers in the panel is in contemplation of arisal of vacancies. The mere inclusion in the panel does not confer any right to be appointed.

9. The procedure in respect of preparation of the panel for the post of Secretary in the Central Government is substantially different. The panels are prepared with reference to the batches of IAS and IPS officers. Once they are included in the panel, a status stands conferred upon them. In contrast, preparation of panel for appointment of Members of CBDT is not confined to the officers of the IRS alone. Any officers of the Central Government appointed on regular basis, in the grade of Rs.37400-67000 in Pay Band 4 with Grade Pay Rs.12000/- is eligible. The exercise is not referable to their respective Services.

10. The applicants are not in a position to cite any rule which confers on them, a right to be extended the benefit of apex scale. Further, they are not able to refer to any precedent wherein an officer who was included in the panel, but was not appointed as Member, CBDT during the currency of the panel, having been extended the apex scale. The benefit of the highest scale, which is almost in the form of recognition of the high office, cannot be

extended on the basis of an analogy, which itself is uncalled for.

11. We do not find any merit in the OA. The same is accordingly dismissed. There shall be no order as to costs.