

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.NO.474/2007

Wednesday this the 5 th day of November, 2008.

CORAM:

**HON'BLE DR. K.B.S.RAJAN, JUDICIAL MEMBER
HON'BLE DR. K.S.SUGATHAN, ADMINISTRATIVE MEMBER**

1. Preetha Suresh Kumar,
Inspector of Central Excise & Customs,
Office of the Asst.Commissioner of Customs &
Central Excise, Palakkad II Division, Palakkad.
2. Narayani P.,
Senior Tax Assistant,
Office of the Asst.Commissioner of Customs &
Central Excise, Palakkad II Division, Palakkad.
3. Biju P.Raphael,
Inspector of Central Excise,
Thrissur II Range, Thrissur. Applicants

(By Advocate Shri Elvin Peter P.J.)

Vs.

1. Union of India, represented by its Secretary,
Department of Revenue,
Ministry of Finance, New Delhi.
2. The Chairman, Central Board of Excise & Customs,
North Block, New Delhi.
3. The Chief Commissioner of Customs & Central Excise,
Kerala Zone, Central Revenue Building,
I.S.Press Road, Cochin-18.
4. The Commissioner of Customs & Central Excise,
Kerala Zone, Central Revenue Building,
I.S.Press Road, Cochin-18. Respondents

(By Advocate Mr.Sunil Jose, ACGSC)

The application having been heard on 5.11.20078
the Tribunal on the same day delivered the following.



OR D E R**HON'BLE Dr.K.B.S.RAJAN, JUDICIAL MEMBER**

The three applicants joined at the Central Excise and Customs Department on 10.3.1988, 6.5.1994 and 11.5.1993 respectively as Lower Division Clerks and were promoted to the post of Upper Division Clerk with effect from 18.12.2002 vide Annexure A-1 order dated 26.6.2006. The next promotional post is Inspector for which the requisite experience as given in the Recruitment Rules is as under:

"(iii) Upper Division Clerk with 13 years of total service as Upper Division Clerk and Lower Division Clerk taken together subject to the condition that they should have put in a minimum of 2 years service in the grade of Upper Division Clerk;

(iv) Stenographer Grade II with 2 years service."

2. In so far as the experience is concerned, relaxation to the following extent is given:

"a) Note 5 : Where juniors who have completed their qualifying or eligibility service are being considered for promotion, their seniors would also be considered provided they are not short of the requisite qualifying or eligibility service by more than half of such qualifying or eligibility service or two years, whichever is less and have successfully completed their probation period for promotion to the next higher grade alongwith their juniors who have already completed such qualifying or eligibility service.

b) Vide order dated 8.10.2003 a one time relaxation to the following extent has been given:-

(iv) Relaxation in Recruitment Rules for promotion to the grade of Stenographer:-

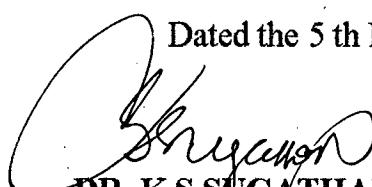
The Central Government has decided to grant a one time relaxation of two years in qualifying service, both for promotion from Stenographer Grade -III to Stenographer Grade -II and Stenographer Grade-II to Stenographer Grade-I. This would imply that a Stenographer working in Grade-III with three years regular service in that grade would be eligible for promotion to Stenographer Grade-II and Stenographer Grade-II with one year of regular service in that grade would be eligible for promotion to Stenographer Grade-I."

3. Respondents have issued promotion order dated 31.10.2003 vide A-4 in which the name of one Mr.Radha Vijayaraghavan figures at Sl.No.29. According to the applicants the said individual is junior to all the applicants and as such, the respondents ought to have given relaxation under the provisions of Note 5 appended to the Recruitment Rules (extracted above), but the respondents have not considered the case of the applicants.

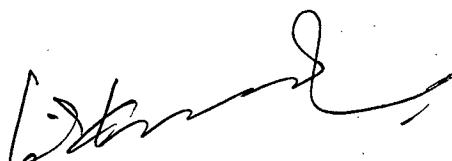
4. The respondents have contested the O.A.. According to them the minimum year of service in the post of UDC is 2 years which condition is not fulfilled by the applicants as they have put in only ten months of service as UDC.

5. Arguments were heard and documents perused. The respondents are very specific about the minimum period of service as UDC besides the total service for being eligible to be considered for promotion to the post of Inspectors. Since this condition of 2 years of minimum service as UDC has not been fulfilled by the applicants, they have not been considered by the respondents for promotion to the post of Inspector of Central Excise. As such, the O.A. fails which is accordingly dismissed.

Dated the 5 th November, 2008.



DR. K.S.SUGATHAN
ADMINISTRATIVE MEMBER



DR. K.B.S.RAJAN
JUDICIAL MEMBER