

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.607/05

Thursday this the 10th day of August 2006

C O R A M :

**HON'BLE MRS.SATHI NAIR, VICE CHAIRMAN
HON'BLE MR.K.B.S.RAJAN, JUDICIAL MEMBER**

1. Biju.P.Raphel,
Tax Assistant,
O/o. Assistant Commissioner
of Central Excise & Customs,
Thrissur Division, Thrissur – 26.
2. Preetha Suresh Kumar,
Tax Assistant,
O/o. Assistant Commissioner
of Central Excise & Customs,
Palakkad II Division, Palakkad.

...Applicants

(By Advocate Mr.Elvin Peter PJ)

Versus

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.
5. Sudheer K.,
S/o.P.Vijayan,
Senior Tax Assistant,
Central Excise Division,
Elanjipalam, Kozhikode – 6.
Residing at Kavunnath House,
Narayana Nagar, Badagara, Calicut Dist.

6. K.Premjith,
S/o.Raghava Kurup,
Senior Tax Assistant,
Central Excise Head Quarters, Calicut.
Residing at Chekkott Kuniyil,
Madappilli College P.O., Badagara.
7. Haridasan P.K.,
S/o.K.P.Chandrashekharan Nambiar,
Senior Tax Assistant,
Central Excise Division Kuzhkkunnu, Kannur – 1.
Residing at Pallikkunnathu House,
Kurinhaliyode Post, Villiappally, Badagara.
8. Bimaldas K.R.,
S/o.Ramdas K.M.,
Senior Tax Assistant,
Central Excise Division, Calicut – 6.
Residing at Karaduparambil House,
Karaduparambil P.O., Malappuram Dist.

...Respondents

(By Advocate Mr.P.S.Biju,ACGSC[R1-4] & Mr.T.C.Govindaswamy [R5-8])

This application having been heard on 10th August 2006 the Tribunal on the same day delivered the following :-

ORDER

HON'BLE MRS.SATHI NAIR, VICE CHAIRMAN

The applicants who were working as Tax Assistants in the Central Excise & Customs Department had approached this Tribunal for consideration for promotion to the cadre of Inspector in accordance with Annexure A-3 Recruitment Rules. According to the method of Recruitment prescribed in Annexure A-3 Rules under Clause A read with Note 1 Tax Assistants with two years service as Tax Assistant or five years service of Tax Assistant and U.D.C together can be considered for promotion. The applicants were aggrieved by Annexure A-5 order of the respondents in which DPC for considering the case of eligible officers coming under Clause B & C of the above Rules were only called for completing the formalities excluding the officers falling under Clause A to which the applicants belong.

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2. A counsel statement was filed denying the averments of the applicants. It is stated that the applicants had joined the Department as LDCs and were promoted as Tax Assistants on restructuring and they were never promoted as UDCs. Hence they did not possess the required qualification for promotion as Inspector and since there were no eligible candidates under Clause A of column 12 of Annexure A-3 Recruitment Rules other candidates were called for.

3. The applicants in their rejoinder contended that it is not correct to say that they had not worked as UDCs, as Tax Assistants and UDCs are the unified merged categories and under Note 1 to Rule 7 of Annexure A-3 Rules the service rendered under the new grade in the restructured cadres shall be counted towards considering the eligibility for promotion under Clause A above. Further as per the order dated 26.6.2006 at Annexure A-6 both the applicants had been promoted as UDCs with effect from 18.12.2002 and hence they had become eligible and now the respondents are legally bound to consider the applicants for promotion.


4. When the matter came up today, counsel for the respondents submitted that according to order at Annexure A-6, now produced by the applicants, the applicants, who figure at Serial No.20 & 28, have been given retrospective promotion as UDCs with effect from 18.12.2002 and hence in all respect they are eligible to be considered for the post of Inspector and that a DPC is being convened shortly to consider the case of promotion to the post of Inspector and, therefore, the applicants have no further grievances. Counsel for the applicants also agreed with the same and submitted that recording this observation the O.A can be closed.

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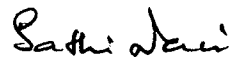
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5. Accordingly, by mutual agreement of the counsel and recording the submissions of the counsel for the respondents that the applicants case will be considered for promotion as Inspector, the O.A is closed. No order as to costs.

(Dated the 10th day of August 2006)



K.B.S.RAJAN
JUDICIAL MEMBER



SATHI NAIR
VICE CHAIRMAN

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