

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.104/2005.

Monday this the 11th day of April, 2005.

CORAM:

**HON'BLE MR. K.V.SACHIDANANDAN, JUDICIAL MEMBER
HON'BLE MR. H.P.DAS, ADMINISTRATIVE MEMBER**

1. S.Babu, Sr. Tax Assistant,
O/o Deputy Commissioner of Central Excise
Trivandrum Division, Press Club Road, Statue,
Trivandrum. Residing at No. TC 38/2216,
Thamarassery House, Angalamman Covil Street,
Chalai, Trivandrum.

2. T.R.Krishnakumar, Sr. Tax Assistant,
O/o Commissioner of Central Excise, ICE Bhavan,
Press Club Road, Statue, Trivandrum, residing at
"Ushus", Pappanamcode, Trivandrum-18.

3. Mathew Philip, Sr.Tax Assistant,
O/o Chief Commissioner of Central Excise &
Customs, I.S.Press Road, Kochi, residing at
Central Excise Quarters No.48, Kakkanad,
Ernakulam.

4. I.V.Seena, W/o Parameswaran,
Sr.Tax Assistant, O/o Commissioner of
Central Excise & customs, I.S.Press Road, Kochi,
residing at Kedaram, Irumbanam P.O.,
Kochi-309.

Applicants

(By Advocate Shri TC Govindaswamy)

Vs.

1. Union of India, represented by
the Secretary, Govt. of India, Ministry of Finance,
Department of Revenue, New Delhi;
2. The Chairman, Central Board of Excise & Customs
Department of Revenue, Ministry of Finance,
New Delhi.
3. The Commissioner of Central Excise & Customs,
Central Revenue Building, I.S.Press Road, Kochi-18.
4. The Commissioner of Central Excise & customs,
ICE Bhavan, Press Club Road, Statue, Trivandrum.
5. Under Secretary to the Government of India,
Ministry of Finance, Department of Revenue,
New Delhi.

6. Member (P & V), Central Board of Excise and Customs,
Ministry of Finance, Department of Revenue, New Delhi.

7. The Commissioner, Directorate of Organisation and Personnel
Management, Central Board of Excise & Customs,
Ministry of Finance, Department of Revenue,
New Delhi. Respondents

(By Advocate Shri TPM Ibrahim Khan, SCGSC)

The application having been heard on 11.4.2005
the Tribunal on the same day delivered the following:

O R D E R (Oral)

HON'BLE MR. K.V.SACHIDANANDAN, JUDICIAL MEMBER

The applicants are presently working as Senior Tax Assistants under the respondents and they seek promotion as Inspectors of Central Excise. The main averment in the O.A. is that, as per A-1 dated 7.1.2005, they are required to pass the Confirmation Examination as per DOP&T's instructions O.M.No.18011/3/88-Estt(D) dated 24.9.1992, which provide that :

"Further confirmation in the new entry grade becomes necessary because the new post may not be in the same line or discipline as the old post in which he has been confirmed and the fact that he was considered suitable for continuance in the old post would not automatically make him suitable for continuance or confirmation in the new post, the job requirement of which may be quite different from those of the old post."

2. Subsequently, when the matter came up for hearing before the Bench, learned counsel for the applicant has filed a M.A.313/2005 along with a document (A-24) dated 17.3.2005 in which it is stated that:

"Since redesignated/promoted Tax Assistants/Sr.Tax Assistants have already been confirmed in the pre-structured cadre of Data Entry Operators, they are not required to pass the confirmation examination. Hence, the earlier instructions dated 7.1.2005 stand modified accordingly."

3. Shri TC Govindaswamy, learned counsel appeared for the applicant and Shri

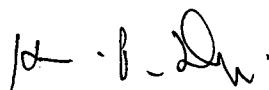


TPM Ibrahim Khan, SCGSC appeared for the respondents. When the matter came up before the Bench, learned counsel for the respondents have filed a statement contending that:

"After filing the above Original Application, the applicant has filed a Miscellaneous Application No.313 of 2005 praying to accept Annexure MA-1 Clarification Letter bearing F.No.A-34011/13/2004 AD III A dated 17.3.2005 issued by the 5th respondent. By this Clarification, the instructions issued vide Order Annexure A-1 has been modified clarifying that as the re-designated promoted Tax Assistant/Senior Tax Assistant has already been confirmed in the Pre-restructured cadre of Data Entry Operators, they are not required to pass the Confirmation Examination."

4. Counsel for the applicants submitted that the applicants would be satisfied if a limited direction is given to the respondents to take appropriate action in the light of the averments in A-24 orders. Learned counsel for the respondents submitted that they have no objection in considering the case of the applicants and granting the benefits. We are also of the view that it will meet the ends of justice.
5. Therefore, we direct the respondents to consider the applicants' promotion with reference to A-24 orders, pass appropriate orders and communicate the same to the applicants within two months from the date of receipt of a copy of this order.
6. O.A. is disposed of as above. In the circumstance no order as to costs

Dated the 11th April 2005.



H.P.DAS

ADMINISTRATIVE MEMBER



K.V.SACHIDANANDAN

JUDICIAL MEMBER

rv/trs