

**CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH**

O.A.No.143/05

Monday this the 28<sup>th</sup> day of November 2005

**C O R A M :**

**HON'BLE MRS.SATHI NAIR, VICE CHAIRMAN  
HON'BLE MR.GEORGE PARACKEN, JUDICIAL MEMBER**

A.A.Jayanthan,  
Skipper Mate,  
Customs Sea Patrol Unit,  
Beypore, Calicut.

...Applicant

(By Advocate Mr.C.S.G.Nair)

**Versus**

1. Union of India represented by the Secretary,  
Department of Revenue, Ministry of Finance,  
North Block, New Delhi – 110 001.
2. The Chairman,  
Central Board of Excise & Customs,  
North Block, New Delhi – 110 001.
3. The Chief Commissioner of Customs,  
Central Revenue Buildings,  
Queen's Road, Bangalore – 2.
4. The Commissioner of Customs (Preventive),  
Central Revenue Buildings,  
I.S.Press Road, Cochin – 18.
5. The Commissioner of Central Excise & Customs,  
Central Revenue Buildings, I.S.Press Road,  
Cochin – 18.
6. The Commissioner (Logistics),  
Customs & Central Excise,  
IV Floor, A Wing,  
Lok Nayak Bhavan,  
Khan Market, New Delhi – 110 003.

...Respondents

(By Advocate Mr.T.P.M.Ibrahim Khan,SCGSC)

This application having been heard on 28<sup>th</sup> November 2005 the  
Tribunal on the same day delivered the following :-

**ORDER**

**HON'BLE MRS.SATHI NAIR, VICE CHAIRMAN**

The applicant submits that he is working as a Skipper Mate from 1997. While working as Sukhani in Sea Patrolling Unit at Kozhikode he had approached this Tribunal by filing O.A.1005/95 for consideration for promotion to the post of Skipper Mate, the functions of which he was discharging from 1995 onwards. This Tribunal had directed the respondents to reckon the past service of the applicant and to place him appropriately in accordance with the Recruitment Rules issued vide notification dated 31.12.1994. In accordance with the above directions of the Tribunal the applicant was promoted as Skipper Mate. He has been working in the grade with effect from 30.12.1997 as evidenced by Annexure A-13. According to the applicant he is the senior most Skipper Mate under the 5<sup>th</sup> respondent and according to the seniority list of Marine Staff in the office of the Commissioner of Central Excise & Customs (Annexure A-3) there are only two Skipper Mates and the applicant is at Serial No.2. The posts of Skipper have not been filled up since the retirement of the previous incumbent and the Departmental Promotion Committee for the same was held only on 28.4.2004 which considered the seniority list of Skipper Mate for Group C officers as on 1.9.2004 on All India basis. By the time the DPC met, the revised Recruitment Rules have been issued (Annexure A-11) according to which essential qualification for promotion is a certificate of competency as second hand of fishing vessel issued by the Mercantile Marine Department of Government of India with

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three years' sea experience on board a mechanised vessel. Out of the seven candidates who were considered, only two were found possessing the required qualification. Though the applicant was called for interview his name was not considered. However considering the length of service and the experience of other candidates the respondents have submitted that the Directorate of Logistics has taken up the matter with the Ministry of Finance to obtain from the UPSC permission for grant of one time relaxation in educational qualification required for the post of Skipper and that the reply in this regard is being awaited. According to Rule 7 of the Recruitment Rules the Central Government can relax the provisions in consultation with the UPSC.

2. When the matter came up, counsel for the applicant submitted that the applicant is retiring on 30.11.2005 and he has been discharging the functions of Skipper in the absence of the incumbent to the post of Skipper as evidenced by the copies of orders at Annexure A-6, Annexure A-7, Annexure A-8 and Annexure A-9. The Directorate of Customs, Marine Headquarters has also permitted the Skipper Mate to take charge of Customs Patrol Crafts in the absence of the Skipper. It is, therefore, evident from the above that the applicant and others had been working since long and the Department has also recognised that in view of long standing experience the rules are required to be relaxed in their favour and that they had also approached the Government to relax the rules. But unfortunately because of the delay in doing so the applicant is unable to get the benefits before his retirement on 30.11.2005.

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3. We are, therefore, of the view that the applicant shall be considered for promotion on the basis of the consideration of his case in the meeting held on 28.2.2005. Accordingly we direct the 1<sup>st</sup> respondent to take a decision on the proposal for relaxation which has been forwarded to them and consider the applicant for promotion to the post of Skipper in relaxation of the Recruitment Rules from the date from which his juniors were promoted on the basis of the meeting of the DPC held on 28.2.2005, with all consequential benefits within a period of two months from the date of receipt of a copy of this order. No order as to costs.

(Dated the 28<sup>th</sup> day of November 2005)

  
**GEORGE PARACKEN**  
**JUDICIAL MEMBER**

  
**SATHI NAIR**  
**VICE CHAIRMAN**

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