

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.22/2003.

Monday this the 10th day of January 2005.

CORAM:

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

Baiju Daniel, Appraiser (Ad hoc)
(Under Orders of Cancellation), Customs House,
Cochin, residing at Customs Quarters,
Wellington Island, Kochi-9.

(By Advocate Shri. R.Sreeraj)

Vs.

1. Union of India, represented by
the Secretary to Government of India,
Ministry of Finance, New Delhi.
2. Commissioner of Customs, (Port.Export),
Customs House, Chennai.
3. Commissioner of Customs,
Customs House, Cochin. Respondents

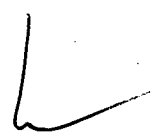
(By Advocate Shri. TPM Ibrahim Khan, SCGSC)

The application having been heard on 10.1.2005,
the Tribunal on the same day delivered the following:

O R D E R (Oral)

HON'BLE MR.KV.SACHIDANANDAN, JUDICIAL MEMBER

The applicant commenced service as an Examiner in the Customs House, Kochi on 18.1.1996. Vide Annexure A-3 the applicant along with two others were promoted to the post of Appraiser on ad-hoc basis and pursuant to Annexure A-4 dated 18.12.2002 issued by the Additional Commissioner of Customs, they were assumed the charge in the same post. Vide Annexure A-1 letter dated 6.1.2003 his ad-hoc promotion was cancelled by the Commissioner of Customs (Port-Export), and the same was communicated to him vide order dated 9.1.2003. Aggrieved by the said action on the part of the respondents, the applicant has filed this O.A. seeking the following main relief.



1. Quash Annexure A-1 and to direct the respondents to allow the applicant to function as Appraiser on ad hoc basis.
2. When the matter came up before the Bench Shri R.Sreeraj learned counsel appeared for the applicant and Shri TPM Ibrahim Khan, SCGSC appeared for respondents. The respondents have filed a detailed reply statement contending that the applicant was charge sheeted and therefore, he was not considered for promotion and the findings of the Departmental Promotion Committee are kept in a sealed cover. The main contention of the respondents is that vigilance clearance in respect of the applicant was not received from the parent Commissionerate i.e. the applicant has been charge sheeted in a case. During the time of convening Departmental Promotion Committee, due to an oversight the same was missed and the officer was considered for adhoc promotion by order dated 17.12.2002 and therefore, by the impugned order the same was cancelled. Learned counsel for the applicant submitted that, according to his knowledge, the enquiry report was already submitted on 7.4.2002 to the Disciplinary Authority after giving him a personal hearing. He also submitted that the applicant would be satisfied if the respondents are directed to open the sealed cover and pass appropriate orders in consequence of the Enquiry Report. The respondents' counsel has no objection in adopting such a course of action.
3. In the interests of justice, we direct that the respondents shall take appropriate steps in accordance with the report, if it has already been submitted, and pass appropriate orders within a time frame of one month. It is also directed that, if the applicant is found otherwise eligible and exonerated

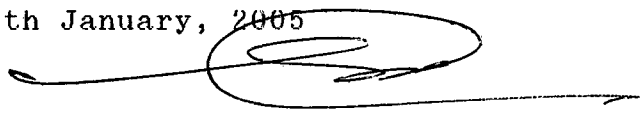
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his name for promotion be considered after opening the sealed cover. Till such process is completed, the impugned order will not be given effect to.

4. O.A. is disposed of at the admission stage itself. In the circumstance, no order as to costs.

Dated the 10th January, 2005


H.P.DAS
ADMINISTRATIVE MEMBER


K.V.SACHIDANANDAN
JUDICIAL MEMBER

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