

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

ALLAHABAD

This is the 09th day of January 2020

ORIGINAL APPLICATION NO. 330/01005/2019

HON'BLE MR. RAKESH SAGAR JAIN, MEMBER (J)

HON'BLE MS. NAINI JAYASEELAN, MEMBER (A)

1. Pradeep Kumar, aged about 58 years, son of Shri Ram Prakash Sachan, presently posted as Superintendent, in the office of the Principal Commissioner, CGST & Central Excise Noida- U.P.
2. Bishan Chandra Gupta, aged about 5 years, son of Suresh Chandra Gupta, presently posted as Superintendent, in the office of the Commissioner, CGST & Central Excise Ghaziabad- U.P.
3. Om Vir Singh, aged about 54 years, son of Shri Shyam Singh, presently posted as Superintendent, in the office of the Commissioner, CGST & Central Excise Noida- U.P.
4. Devesh Rastogi, aged about 52 years, son of Late Ram Kumar Rastogi, presently posted as Superintendent, in the office of the Principal Commissioner, CGST & Central Excise Noida- U.P.
5. Sanjay Anand, aged about 49 years, son of Shri Shyamanand Jha, presently posted as Senior Intelligence Officer, in the office of Deputy Director, Directorate General of CST Intelligence, Ghaziabad Region Unit, Ghaziabad, U.P.
6. Parvinder Singh, aged about 53 years, son of Late S. Inderjit Singh, presently posted as Superintendent, in the office of the Commissioner, CGST & Central Excise Noida- U.P.
7. Nishan Singh, aged about 50 years, son of Late S. Dalbir Singh, presently posted as Superintendent, in the office of the Commissioner, CGST & Central Excise Noida- U.P.
8. Sanjay Chaubey, aged about 51 years, son of Late S.C. Chaubey, presently posted as Superintendent, in the office of the Principal Commissioner, CGST & Central Excise Noida- U.P.
9. Deepak Kumar, aged about 55 years, son of Sri Raghuber Prasad, presently posted as Superintendent, in the office of the Assistant Commissioner, CGST Division -II, Noida- U.P.
10. Manmohan Khullar, aged about 52 years, son of Late Dharam Pal Khullar, presently posted as Superintendent, in the office of the Principal Commissioner, CGST & Central Excise Noida- U.P.
11. Kanwaljit Bakshi, aged abou 51 years son of Late Surjit Singh, presently posted as Superintendent, in the office of the Principal Commissioner, CGST & Central Excise Noida- U.P.
12. Sanjeev Kumar Sabberwal, aged about 49 years, son of Sri Tilak Raj Sabhaewal, presently posted as Superintendent, in the office of the Principal Commissioner, CGST & Central Excise Noida- U.P.

13. Kamal Jeet Bhatia, aged about 52 years, son of Late Darshan Lal Bhatia, presently posted as Superintendent, in the office of the Principal Commissioner, CGST & Central Excise Noida- U.P.
14. Vinay Kumar aged about 50 years son of Sri Vishwambhar Nath, presently posted as Superintendent, in the office of the Principal Commissioner, CGST & Central Excise Noida- U.P.
15. Hari Ballabh Sharma, aged about 50 years, son of Shri Giriraj Sharma, presently posted as Superintendent, in the office of the Chief Commissioner, CGST & Central Excise Meerut Zone, Meerut- U.P.
16. Diwakar Singh Bisht, aged about 52 years, son of Shri Rajendra Singh Bisht, presently posted as Superintendent, in the office of the Noida Customs Commissionerate, Noida- U.P.
17. Pravesh Chandra Gupta, aged about 59 ½ years, Late son of Late Kamta Prasad Gupta, presently posted as Superintendent, in the office of the Commissioner of Customs, Noida Customs Commissionerate, Noida- U.P.
18. Bal Kishan, aged about 52 years son of Shri Lakshman Prasad presently posted as Superintendent, in the office of the Commissioner of Customs, Noida Customs Commissionerate, Noida- U.P.
19. Vijay Pal Singh, aged about 51 years son of Late Govind Singh Ravivanshi, presently posted as Superintendent, in the office of the Commissioner of Customs, Noida Customs Commissionerate, Noida- U.P.
20. Ravindra Kumar, aged about 48 years, son of Sri Ratan Singh, presently posted as Superintendent, in the office of the Commissioner of Customs, Noida Customs Commissionerate, Noida- U.P.
21. Ajit Kumar, aged about 50 years, son of Late R.S. Saxena, presently posted as Superintendent, in the office of the Commissioner of Customs, Noida Customs Commissionerate, Noida- U.P.
22. Ajay Kumar Singhal, aged about 54 ½ years son of Late Sundar Lal Singhal, presently posted as Superintendent at CGST Division, Rishikesh, in the office of the Commissioner, CGST & Central Excise, Dehradun, Uttarakhand.
23. Bharat Singh agd about 52 years son of Late Lallu Singh, presently posted as Superintendent at CGST Division, Kashipur, in the office of the Deputy Commissioner, CGST, Kashipur, under the Commissioner, CGST Commissionerate, Dehradun, Uttarakhand.
24. Ram Gyan Ram, aged about 48 years son of Sri Phul Chand Ram, presently posted as Superintendent at the Customs ICD, Kashipur, Uttarakhand, under the office of Customs Comissionerate, Noida UP.
25. Sanjeev Kumar aged about 48 years son of Chandra Deo Rai, presently posted as Superintendent, in the office of the Commissioner of Customs, Noida Customs Commissionerate, Noida- U.P.
26. Nagendra Singh, aged about 52 years son of Sri Satyavir Singh Sirohi, presently posted as Superintendent, in the office of the Commissioner of Customs, Noida Customs Commissionerate, Noida- U.P.
27. Santosh Kumar Srivastava, aged about 52 years, son of K.B.S. Srivastava, presently posted as Superintendent, in the office of the Commissioner of Customs, Noida Customs Commissionerate, Noida- U.P.
28. Devendra Kumar, aged about 49 years, son of Sri Pratap Singh, presently posted as Superintendent (Customs) ICD, Moradabad under the office of the Commissioner of Customs, Noida Customs Commissionerate, Noida, U.P.
29. Vimal Kumar Pant, aged about 50years, son of Sri Dinesh Chandra Pant, presently posted as Superintendent, in the office of the

Commissioner of Customs, Noida Customs Commissionerate, Noida-U.P.

30. Jaivir Singh, aged about 49 years son of C.P. Singh, presently posted as Superintendent at CGST Division I, Noida, under the office of the Commissioner CGST & Central Excise, Noida, U.P the Assistant Commissioner, CGST & Central Excise, Kutchery Road, Gorakhpur U.P.

31. Sudhir Kumar Pathak, aged about 48 years son of Late S.P. Pathak, presently posted as Superintendent at the CGST Audit Commissionerate, Noida under the office of the Commissioner, CGST, Audit, Noida – U.P.

32. Ajay Kumar Malik, aged about 48 years, son of Sri Randhir Singh, presently posted as Superintendent at the CGST Commissionerate, Ghaziabad under the office of the Commissioner, CGST, Ghaziabad-U.P.

33. Deependra Kumar Saxena, aged about 52 years, son of Late Veerendra Kumar Saxena, presently posted as Superintendent at the CGST Commissionerate, Ghaziabad under the office of the Commissioner, CGST, Ghaziabad- U.P.

34. Pramod Kumar Balyan, aged about 57 years, son of Late M.S. Balyan, presently posted as Superintendent at the Central Intelligence Unit at Noida, under the office of the Chief Commissioner, CGST & Central Excise, Meerut Zone, Meerut UP.

35. Ambrish Kumar Sharma, aged about 53 years son of late Brij Kishore, presently posted as Superintendent, in the office of the Commissioner of Customs, Noida Customs Commissionerate, Noida- U.P.

36. Anand Sharma, aged about 49 years son of Sri Shyam Sunder Sharma, Presently posted as Superintendent in the office of the Chief Commissioner, Customs CGSt, Meerut Zone, Meerut- U.P.

37. Alok Kumar Sharma, aged about 51 years, son of Late Shiva Dutt Sharma, Presently posted as Superintendent at the CGST Commissionerate, Noida-U.P.

38. Rakesh Mohan, aged about 50 years, son of Sri I.D. Bijalwan, Presently posted as Assistant Director (on deputation), at the Enforcement Directorate, New Delhi.

39. Sandeep Thapaliyal, aged about 47 years, son of Late J.P Thapaliyal, presently posted as Assistant Director (on deputation), at the Enforcement Department, New Delhi.

40. Prakash Singh Rawat, aged about 47 years son of Sri K.S Rawat, presently posted as Superintendent Vigilance CGST Ghaziabad, in the office of the Commissioner, CGST, Ghaziabad, UP.

41. Sudhir Kumar, aged about 49 years, son of Late Virendra Singh Panwar, Presently posted as Superintendent at Range II, Sikandarabad, Division Bulandshahar, under the CGST Commissionerate, Gautam Buddha Nagar, U.P.

42. Rohitash Pandey, aged about 52 years son of Late Hari Narain Pandey, presently posted as Assistant Director (on deputation), at the Enforcement Department, Delhi Zonal Office – I, New Delhi.

43. Arvind Kumar Katheria, aged about 52 years son of Late Nathu Lal, presently posted as Superintendent at the Noida Special Economic Zone (NSEZ), Noida (on deputation), Parent Commissionerate CGST, Gautam Buddha Nagar Commissionerate, Greater Noida.

44. Ajay Sharma, aged about 50 years, son of Late V.K. Sharma presently posted as Superintendent at the Noida Special Economic Zone (NSEZ), Noida (on deputation), Parent Commissionerate CGST, Gautam Buddha Nagar Commissionerate, Greater Noida.

45. Ajay Kumar Sinha, aged about 51 years, son of Sri Brijnandan Prasad, presently posted as Superintendent in the office of Development Commissioner, Noida Special Economic Zone (NSEZ), Phase II, Noida under the Commissioner, CGST, Meerut, U.P.

46. Rabendra Kumar Chauhan, aged about 53 years, son of late H.S. Chauhan, presently posted as Superintendent in the office of Development Commissioner, Noida Special Economic Zone (NSEZ), Phase II, Noida under the office of the Commissioner, Gautam Buddha Nagar, Greater Noida, U.P.

47. Sanjay Kumar Tyagi, aged about 50 years, son of Sri Ram Bali Pathak, presently posted as Superintendent in the office of Development Commissioner, MOC, Noida Special Economic Zone (NSEZ), Phase II, Noida, U.P.

48. Rajendra Kumar Pant, aged about 51 years, son of late Navin Chandra Pant, presently posted as Superintendent at the CGST Commissionerate Noida, U.P.

49. Jag Pal Singh, aged about 52 years, son of Sri Ant Ram Singh, presently posted as Superintendent at the CGST Commissionerate, NOida -UP.

50. Manmohan Pant, aged about 51 years, son of Late Dharma Nand Pant, presently posted as Superintendent in the office of the Chief Commissioner, Customs and CGST, Meerut, U.P.

51. Asit Mohan Kaushik, aged about 50 years, son of late Ram Ratan Kaushik, presently posted as Superintendent in the office of the Chief Commissioner, Customs and CGST, Meerut, U.P.

.....Applicants.

VE R S U S

1. The Union of India, through the Secretary, Ministry of Finance, Department of Revenue, Government of India, New Delhi.
2. The Central Board of Indirect Taxes and Customs, through its Chairman, Government of India, New Delhi.
3. The Principal Chief Commissioner, (Cadre Controlling Authority), Central Goods and Services Tax and Central Excise, Lucknow Zone, 7-A, Ashok Marg, Lucknow-U.P.
4. The Secretary, Department of Personnel and Training, Ministry of Personnel, Public Grievances and Pensions, Government of India, New Delhi.
5. The Chief Commissioner, CGST & Central Opposite Chaudhary Charan Singh University Mangal Pandey Nagar, Meerut, 25005.
6. The Principal Commissioner, CGST & Customs, Central Opposite Chaudhary Charan Singh University Mangal Pandey Nagar, Meerut, 25005.
7. The Principal Commissioner CGST & Central Excise, C-56/42, Renu Tower, Sector 62 Noida 201301.
8. The Commissioner, CGST & Central Excise, First Floor, A-17, Discovery Tower, Sector 62, Noida 201301.
9. The Commissioner, Customs, CONCOR Complex, ICD, Tilapta Greater NOida, District Gautam Buddha Nagar 201311.
10. The Commissioner (CGST & Central Excise Nehru Nagar, Dharampur, Dehradun Uttarakhand.

.....Respondents

Advocate for the Applicant : Shri Shyamal Narain

Advocate for the Respondents : Shri L.P. Tiwari

O R D E R

(Delivered by Hon'ble Mr. Rakesh Sagar Jain, Member-J)

1. Heard Shri Shyamal Narain, learned counsel for the applicants and Shri L P Tiwari, learned counsel for the respondents. It be noted that Respondent No.11 has been deleted from the array of respondent vide order dated 06.01.2020.

2. At the onset, the question of jurisdiction of this Tribunal at Allahabad qua some of the applicants has arisen on the ground that at the time of filing this OA, applicants No. 22 (Ajay Kumar Singhal), Applicant No. 23 (Bharat Singh), Applicant No. 38 (Rakesh Mohan), Applicant No. 39 (Sandeep Thapaliyal, Applicant No. 42 (Rohitash Pandey) were posted in Delhi or State of Uttarakhand, as per, their particulars shown in the OA. Hence, applicants No.22, 23, 38, 39 and 42 should have filed their O.A. before the Tribunals having jurisdiction, as per, the rule 6 of the CAT (Procedure) Rules, 1987.

3. We have perused the records. It is a fact that on the date of filing the OA in September, 2019, the applicants No. 22, 23, 38, 39 and 42 were serving and posted in Delhi or State of Uttarakhand.

4. Rule 6 of the CAT (Procedure) Rules, 1987 states as under:

"Place of filing application – (1) An application shall ordinarily be filed by an applicant with the Registrar of the Bench within whose jurisdiction –

***(i) the applicant is posted for the time being, or
(ii) the cause of action, wholly or in part, has arisen:***

Provided that with the leave of the Chairman the application may be filed with the Registrar of the Principal Bench and subject to the orders under section 25, such application shall be heard and disposed of by the Bench which has jurisdiction over the matter.

(2) Notwithstanding anything contained in sub-rule (1) persons who have ceased to be in service by reason of retirement, dismissal or termination of service may at his option file an application with the Registrar of the Bench within whose jurisdiction such person is ordinarily residing at the time of filing of the application."

5. It is clear that on the date of filing the OA, applicants No. 22, 23, 38, 39 and 42 were posted in Delhi or State of Uttarakhand and, therefore, these applicants should have filed their OA as per the rule 6(1) with the Registrar of the Bench, as per. their place of posting, or the place where the cause of action has arisen, or with the Principal Bench with the leave of the Chairman, subject to the orders under section 25 of the Administrative Tribunals Act, 1985 (in short ACT), which states as under:-

"25. Power of Chairman to transfer cases from one Bench to another.

On the application of any of the parties and after notice to the parties and after hearing such of them as he may desire to be heard, or on his own motion without such notice, the Chairman may transfer any case pending before one Bench, for disposal, to any other Bench."

6. In a similar case of Rajvir Singh vs Sr. Div. Electric Engineer in OA No.37/2012 (<https://indiankanoon.org/doc/101202577>), decided by the Principal Bench of this Tribunal, it was held as under:-

"13. We find force in the submission made by the learned counsel for the respondents. It is not disputed by the applicant that as on the date of filing of the OA he is residing and working at Shamgarh in Kota District of Rajasthan which falls within the territorial jurisdiction of Jaipur Bench of this Tribunal. Simply giving an address of Delhi in the OA does not entitle him to file the same in the Principal Bench of this Tribunal. The cause of action in a service matter arise where the order impugned in the OA is issued or served on the applicant which is also admittedly at Kota, which is within the territorial jurisdiction of Jaipur Bench of this Tribunal. Whole or part cause of action for the OA did not arise within the jurisdiction of this Bench. The contention of the applicant that the cause for his initial removal occurred within the jurisdiction of the Principal Bench also gives rise for cause of action for the present OA is untenable and unacceptable, and, accordingly this Principal Bench has no jurisdiction to adjudicate the present OA.

14. In view of our finding that this Bench has no territorial jurisdiction to adjudicate the OA, the merits of the same are not delve upon and all the other issues are left open.

15. In the circumstances and for the aforesaid reasons, the Registry is directed to return the OA papers to the applicant, after keeping one copy of the same for the record purpose of this Bench, to enable him to present the same before the appropriate Bench of this Tribunal in accordance with the relevant rules."

7. On a similar issue of jurisdiction, in another case of Prajeesh. R vs. Union of India and Others in OA No. 1085 of 2016, decided by Ernakulam Bench of this Tribunal (<https://indiankanoon.org/doc/10423616>) vide order dated 06.04.2017, it was held as under:-

"3. The learned counsel for the applicant would submit that part of the cause of action has arisen within the jurisdiction of this Tribunal. We cannot accede to that submission. The cause of action so far as the request for inter divisional transfer arises from the fact that the applicant is in service and the service being rendered by the applicant at Trichy in Tamil Nadu State. The fact that the respondents

4&5 are stationed at Thiruvananthapuram is no reason to say that this Tribunal has jurisdiction to entertain the matter. Rule 6 of CAT (Procedure) Rules says that an application shall ordinarily be filed by an applicant with the Registrar of the Bench within whose jurisdiction (i) the applicant is posted for the time being, or (ii) the cause of action, wholly or in part, has arisen. So far as the applicant is concerned, he is posted for the time being in Trichy which is outside the jurisdiction of this Tribunal. No part of cause of action arises within the jurisdiction of this Tribunal. Therefore, this Tribunal has no territorial jurisdiction to entertain this Original Application. Hence, this application is rejected on the ground of jurisdiction, giving liberty to the applicant to move the Tribunal having jurisdiction over the issue for appropriate reliefs. No order as to costs."

8. In the circumstances, following the cases decided by the coordinate Bench of this Tribunal as discussed above, we are of the view that the Allahabad Bench does not have jurisdiction to adjudicate this case insofar as applicants No. 22, 23, 38, 39 and 42 are concerned. Accordingly, we dismiss the OA for lack of jurisdiction of this Bench to adjudicate the case qua applicants No. 22, 23, 38, 39 and 42 with liberty to the applicants to file it before the appropriate Bench of this Tribunal as per the provisions of law. It is made clear that we have not gone into merits of the case regarding applicants No. 22, 23, 38, 39 and 42.
9. The case of remaining applicants is that the matter in dispute was decided by the Hon'ble Madras High Court in the case of M. Subramanium Vs Union of India and others. The respondents went in appeal against the judgment passed by the Hon'ble Madras High Court before the Hon'ble Supreme Court. However, the SLP as well as the Review application was dismissed by the Hon'ble Supreme Court.

10. Learned counsel for the applicants submitted that the Chandigarh Bench, Mumbai Bench, Principal Bench and Hyderabad Bench of this Tribunal also considered similar matters and followed the law laid down by the Hon'ble High Court of Madras, and therefore, there can be no impediment in giving the same relief to the applicants herein.
11. It is further contended by the learned counsel for the applicants that the respondents have sought to make out that the judgment passed by the Hon'ble Madras High Court is judgment in personam, ignoring the fact that the other Benches of this Tribunal have followed the judgment passed by the Hon'ble Madras High Court. Hence, it would be in fitness of things if the respondents consider the case of the applicants and meet out the same treatment as has been given to their other counter parts all over India.
12. It may be noted that applicants have placed on record the 'compliance orders' passed by the respondents to give effect to orders passed by various legal forum regarding the dispute covered by the present OA.
13. In these circumstances, the respondents are directed to consider the stand of the applicants and take a decision and accord similar treatment as given to similarly situated officers of Government of India in the aforementioned litigations referred above.
14. It would be pertinent to note that the pay fixation matters, like the one under consideration are all governed by uniform policies of the

Government, any judgment on these matters by their very nature are always judgment in rem and cannot be judgment in personam, unless so specified in the order.

15. Learned counsel for the respondents is directed to forward a copy of the OA as well as the copy of the judgments furnished by the learned counsel for the applicants to the respondents for their information and consideration of the matter. The respondents would ensure that the benefit of the judgment referred above are given to all the persons who are entitled to the same whether they are retired or are in service. This exercise is to be completed within a month from the date of receipt of certified copy of this order. With the above direction, the OA is disposed of. No order as to cost.

(NAINI JAYASEELAN)

Member (A)

(RAKESH SAGAR JAIN)

Member (J)

Manish/-