



**Central Administrative Tribunal
Principal Bench, New Delhi**

**O.A. No.2007 of 2019
M.A. No.2167 of 2019**

This the 2ndday of September, 2020

(Through Video Conferencing)

**Hon'ble Mr. A.K. Bishnoi, Member (A)
Hon'ble Mr. R.N. Singh, Member (J)**

1. Ashok Kumar Giri
Aged about 40 years
S/o Ram TejGiri
R/o 808, Woodburry tower, Eros Garden
Charmwood Village Faridabad 121009
Working as Superintendent, Group (B).
2. Virender Kumar
Aged about 40 years
S/o R R Arya
R/o 39-40, Harmilap MHC, Old Camp Road
Near Bhankharpur Gurudwara, Derabassi-14050
Distt: SAS Nagar Mohali, Punjab
Working as Superintendent, Group (B).
3. Satish Panwar
Aged about 43 years
S/o Harish Chandra Panwar
R/o 39 Jyoti Nagar, 200 Feet Road, Alwar
Rajasthan-301001
Working as Superintendent, Group (B).
4. Madhur Borkar
Aged about 39 years
S/o Yashwant Borkar
R/o 58, Gali No. 3, Nehru Gali, Sant Nagar
(Burari), Delhi-110084
Working as Superintendent, Group (B).
5. VatanPosla
Aged about 45 years
S/o late Sh. Kanwal Singh
R/o 334, 2nd Floor, Sector-17
Faridabad-121001
Working as Superintendent, Group (B).



6. Ujwal Kumar
Aged about 42 years
S/o S C Gupta
R/o Flat No. Coral B-006, Shalimar city
Wazirabad Road, Sahibabad
Ghaziabad-201005
Working as Superintendent, Group (B).
7. Gautam Kumar
Aged about 43 years
S/o Brijnandan Kishore
R/o D-224B, Mohan Garden, Uttam Nagar
New Delhi-110059
Working as Superintendent, Group (B).
8. Amit Mahey
Aged about 42 years
S/o Charan Das
R/o C5D/94B, Janakpuri, New Delhi-110058
Working as Superintendent, Group (B).
9. Anil Kumar
Aged about 43 years
S/o Dhoop Singh
R/o H.No. 1642, Sector-3, Rohtak-124001
Working as Superintendent, Group (B).
10. Manoj Kumar
Aged about 43 years
S/o Sh. Thakur Dass
R/o S 71 A, Mohan Garden, New Delhi-110059
Working as Superintendent, Group (B).
11. Sushil Kumar
Aged about 40 years
S/o Sh Kailash Chander
R/o V&PO, Ukhelchana Tehsil and Distt.
Jhajjar, Haryana-124104
Working as Superintendent, Group (B).
12. Ashok Kumar
Aged about 39 years
S/o late Sh. Sahab Singh
R/o C-15/29 B Street no. 4, Arjun Mohalla
Maujpur, Delhi-110053
Working as Superintendent, Group (B).
13. Arvind Kumar Meena



Aged about 37 years
 S/o Sh. Ramsingh Meena
 R/o 141-A pocket F
 Mayur Vihar Phase II, Delhi-110091
 Working as Superintendent, Group (B).

14. Parasram Meena
 Aged about 41 years
 S/o Ganga Shay Meena
 R/o Flat No. 6, Ground Floor, Raj Krishna
 Apartment, Kakrola Dwarka Sector-16B
 New Delhi-110078
 Working as Superintendent, Group (B).

15. Yogesh Kumar
 Aged about 39 years
 S/o Rampat
 R/o Flat No. 161, Pink Apartment,
 Sector – 18 B
 Dwarka, New Delhi-110078
 Working as Superintendent, Group (B).

16. Ramchandra
 Aged about 39 years
 S/o late Sh. Baleshwar Das
 R/o Flat No. 1870/A, Govindpuri Extension
 Kalkaji, South Delhi.
 Working as Superintendent, Group (B).

...Applicants

(through Sh. M.K. Bhardwaj)

Versus

1. Union of India
 Through its Secretary
 Ministry of Finance
 North Block, New Delhi.

2. The Chairman
 CBEC, North Block, New Delhi.

3. The Chief Commissioner of CGST & Central Excise
 Delhi Zone, CR Building, IP Estate
 New Delhi. ...
 Respondents

(through Sh. Rajeev Kumar)



ORDER (Oral)

Hon'ble Mr. R.N. Singh, Member (J):

M.A. No.2167 of 2019

This MA has been filed by the applicants, 16 in number, seeking permission to file the aforesaid OA jointly.

2. For the reasons given therein in the MA and keeping in view no objection from the Ld. Counsel for the respondents, this MA is allowed.

O.A. No.2007 of 2019

The present OA has been filed by the applicants, 16 in number, under Section 19 of the Administrative Tribunals Act, 1985.

2. Learned counsel for the applicants argues that grievances of the applicants are that the respondents are not considering the claim of the applicants for grant of promotion to the post of Superintendent, Central Excise from the date of promotion of their juniors promoted vide orders dated 30.9.2014, 14.10.2014 and 1.4.2015.

3. He further submits that main grievance of the applicants is also that the respondents are not promoting the applicants to the post of Superintendent, Central Excise along with their juniors vide order dated 21.8.2018 by extending two years relaxation in the length of service to be eligible for being considered for such

promotion. In the aforesaid background, the applicants have prayed for the following reliefs:-



“i) to direct the respondents to consider the applicants for promotion to the post of Superintendent Central Excise by granting them relaxation upto 02 years in eligibility service prescribed in RRs as per OM dated 25.03.1996 and grant them promotion from the date/dates of promotion of their immediate junior with all consequential benefits of pay fixation and seniority (As already given by the Department vide order dated 21.08.2018)

ii) to declare the action of the respondents in not promoting the applicants to the post of Superintendent Central Excise along with their juniors w.e.f. September/October 2014 & April 2015 vide order dated 21.08.2018 as illegal, unjustified and issue appropriate directions for promoting the applicants to the said post of Superintendent, Central Excise by giving relaxation of two years of service as per DOP&T OM no. AB-14017/12/88-Estt. (RR) dated 25.03.1996 and the law on the subject w.e.f. September/October, 2014 & April 2015 or date of promotion of juniors with all consequential benefits including arrears of pay by holding Review DPCs.

iii) to grant promotion to the applicants to the post of Superintendent Central Excise from the date of promotion of the juniors by extending the benefits of order dated 12.05.2016 in OA No. 3405/2014, Pankaj Nayan&Ors. vs. Union of India.

iv) to allow the OA with costs.

v) any other reliefs as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case to meet the ends of justice.”



4. Shri Bhardwaj, learned counsel for the applicants, has invited our attention to paras 4.19 and 4.20 of the OA wherein the applicants have averred as under:-

“Paras 4.19 That after receipt of aforesaid representation, the respondents were required to consider the claim of applicants for promotion from the date of promotion of their juniors. The applicants also stated that they were promoted from 01.04.2015/01.04.2016, whereas their juniors were promoted from September/October, 2014 and April, 2015. The applicants requested to grant them promotion from the date of promotion of their juniors as per the order of Hon’ble Tribunal in the case of Pankaj Nayan&Ors as well as interim order of Hon’ble High Court. The respondents did not do the needful on the ground that the writ petition in case of Pankaj Nayan was still pending. The said writ petition no. 11277/2016 as well as other connected petitions filed in the case of Pankaj Nayan&Ors as well as other similarly placed persons was also dismissed by Hon’ble High Court vide order dated 29.10.2018. Copy of said order dated 29.10.2018 in aforesaid writ petition is annexed as Annexure A-10.

4.20 That in view of dismissal of said writ petition of the respondents, the benefit of judgment in the case of Pankaj Nayan were required to be extended to all similarly placed persons. The applicants submitted representation to the respondents to grant them promotions to the post of Superintendent of Central Excise from the date of promotion of their juniors as per the order passed in case of Pankaj Nayan&Ors. The said representations submitted in the month of January 2018 & August 2018 to October 2018, however needful was not done in case of applicants merely because the applicants were not party in the said OAs and writ petitions. The said act of the



respondents in not giving the benefits of order passed by Hon'ble Tribunal as well as Hon'ble High Court of Delhi in case of similarly placed persons is contemptuous in view of the law laid down by Hon'ble Supreme Court in the case of East India Commercial Company Ltd. vs. Collector of Customs Calcutta, AIR 1962 SC 1893 and judgment of Hon'ble Delhi High Court in the case of Nardev vs. Union of India. Therefore, interference of this Hon'ble Tribunal is warranted on the following grounds:-"

5. In response to the notice issued by this Tribunal, the respondents have filed a detailed counter reply. Shri Rajeev Kumar, learned counsel for the respondents, has invited our attention to the averment of the respondents made in para 5G of their counter reply which reads as under:-

"Para 5G That the contents of Para 5G of the Original Application as stated by the Applicant are wrong and denied. In fact, the Sr. Jr. Clause had been incorporated in then existing RRs of Superintendent of Central Excise, 1986. Further, as far as issue of extension of benefit of order dated 12.05.2016 in OA No.3405/2014 filed by Sh. Pankaj Nayan/order dated 29.10.2018 in WP© 11277/2016 UOI vs. Pankaj Nayan&Ors. to other similarly placed petitioners and non-petitioners is concerned, the matter is already under consideration with DoP&T. However, interdepartmental consultation is expected to take some time.

In view of this, it is prayed before the Hon'ble CAT that the department may be allowed to maintain status quo till clarification is obtained from DoP&T& CBIC."



6. We have heard the learned counsel for the parties and we have also perused the pleadings available on record. From the aforesaid, it is evident that the applicants have prayed for promotion to the post of Superintendent, Central Excise with effect from the date(s) of promotion of their juniors by extending the benefits of the judgment of this Tribunal in **Pankaj Nayan & others v. Union of India & others** in O.A. No.3405/2014 decided on 12.5.2016 which has attained finality after dismissal of the Writ Petition (Civil) No.11277/2016 (**Union of India and others vs. Pankaj Nayan and others**) by the Hon'ble High Court vide Order/Judgment dated 29.11.2016. The respondents have only defence that issue regarding claim of the applicants is pending consideration of the respondents and the respondents are in the process of deliberation with the nodal Ministry, i.e., DoP&T and, therefore, they need some more time and accordingly, they prayed for status quo in the matter.

7. In the facts and circumstances, we are of the considered view that OA can be disposed of with direction to the respondents to consider the claim of the applicants and dispose of the same by passing an appropriate reasoned and speaking order in a time bound manner.



8. In view of the aforesaid, without going into the merit, the present OA is disposed of with direction to the respondents to consider the claim of the applicants for promotion to the post of Superintendent, Central Excise with effect from the date(s) when their juniors have been promoted to the said post keeping in view the judgment of this Tribunal in ***Pankaj Nayan's*** case (*supra*) which has attained finality after dismissal of the said Writ Petition by the Hon'ble High Court of Delhi vide Order/Judgment dated 29.11.2016 (*supra*) and to pass a reasoned and speaking order as expeditiously as possible and in any case within 16 weeks of receipt of a copy of this Order.

9. The OA is disposed of in the aforesaid terms. There shall be no order as to costs.

(R.N. Singh)
Member (J)

/ravi/ns/uma/

(A.K. Bishnoi)
Member (A)