

**CENTRAL ADMINISTRATIVE TRIBUNAL  
AHMEDABAD BENCH**

**Original Application No.249/2020 with M A No. 229/2020**

**Dated this the 13th day of July, 2021.**

**Reserved on: 21.01.2021**

**Pronounced on: 13.07.2021**

**CORAM :**

**Hon'ble Sh. Jayesh V. Bhairavia, Member (J)**

**Hon'ble Sh. Dr. A.K. Dubey, Member (A)**

1. Jitendra Harilal Pithadia,  
Aged: 47 years,  
Working as Senior Intelligence Officer, DRI, Ahmedabad.  
Residing at B – 1102, Vertis, Near Mangaldeep Partiy Plot,  
Science city road, Sola, Ahmedabad.
2. Dharmendra Bassarmal Kanjani,  
Aged: 45 years,  
Working as Superintendent In office of the Commissioner (AR)  
Residing at GF-4 Shubham Flats, Near Indian Overseas Bank,  
Sardarnagar, Ahmedabad.

...Applicants

(By Advocate Mr. Jayraj Chauhan)

V/S

1. Union of India  
(Through the Revenue Secretary,  
Government of India, Ministry of Finance,  
Department of Revenue, North Block, New Delhi -110 001)
2. The Chairman,  
Central Board of Indirect Taxes, Excise & Customs  
Room No 243E, 2<sup>nd</sup> Floor,  
North Block, New Delhi - 110 001.
3. The Chairman/Secretary  
Department of Personnel & Training,  
North Block, New Delhi - 110 001.
4. The Director General (HRD)  
2<sup>nd</sup> & 3<sup>rd</sup> Floor Bhai Veersingh Marg,  
Sahitya Sadan, New Delhi – 110 001.
5. Chief Commissioner  
(Cadre Control Unit)  
Central Excise, Customs & Service Tax  
Vadodara Zone, 2<sup>nd</sup> Floor,  
Central Excise Building, Race Course Circle, Vadodara – 390 007.

6. Chandragupt Singh Rathore,  
Aged: 36 years, Working as Inspector of Central Excise  
S/o. Late Shri Rajendra Singh Rathore,  
Residing at: Flat No.5, Pramukh Residnecy,  
Hira Kiran Apartment, Halar Road, Valsad – 396 001.
7. Yogeshkumar Razak,  
Aged: 31 years, working as Inspector of Central Excise,  
S/o. Sh. Ratan Prakash Verma,  
Residing at: 28, Vastav Park,  
Roffel College Road, Nr. Janseva Hospital,  
Vapi Town,Dist.: Valsad -396 191.
8. Rakesh Kumar,  
Aged: 35 years, working as  
Inspector of Central Excise,  
S/o. Sh. Sunil Kumar Singh,  
Residing at: F.No. A1 – 601,Pramukh Oracle, Dunar Falia,  
Near Dabhel Check Post, Vapi – 396 191.
9. Avinash Rawat,  
Aged: 32 years, working as Inspector of Central Excise,  
S/o. Sh. Dharm Singh Rawat,  
Residing at: Viola-605, Park City,Opp. Yogi Hospital,  
Kilwani Naka, Silvasa – 396 230.
10. Arjun Singh,  
Aged: 35years, working as Inspector of Central Excise,  
S/o. Sh. Lakshman Singh,  
Residing at: F.No. C-1/206,Yogi Hills,  
Basera Road, Amli, Silvasa 396 230.
11. Kaushal Kishore,  
Aged: 38 years, working as Inspector of Central Excise,  
S/o. Sh. Naveenkumar Gupta,  
Residing at: B 302, Shree Ganesh App.,  
Krishna olony, Muktanand Marg, Chala, Vapi – 396 191.
12. Naveen Kumar,  
Aged: 33 years, working as Inspector of Central Excise,  
S/o. Sh. Shri Ayodhya Prasad,  
Residing at: Flat No. 105,  
Anmol Apartment, Behind Mahesh Bhavan,  
Muktanand Marg, Chala, Vapi – 396 191.
13. Prem Prakash Meena,  
Aged: 33 years, working as Inspector of Central Excise,  
S/o.Sh. Ram Kishan Meena,  
Residing at: F.No. A-806,  
Subham Tower-3, Vapi-Daman Road,

Chala, Vapi – 396 191.

14. Suresh Chand Meena,  
Aged: 33years, working as Inspector of Central Excise,  
S/o Sh. Ramesh Chand Meena,  
Residing at: I-604, Pramukh Residency, Chala, Vapi – 396 191.
15. Mahendra Kumar Meena,  
Aged: 37 years, working as Inspector of Central Excise,  
S/o. Sh. Hari Narayan Meena,  
Residing at: F.No. C-706,Subham Tower-3,  
Vapi-Daman Road, Chala, Vapi – 396 191.
16. Sandeep Kumar,  
Aged: 37 years, working as Inspector of Central Excise,  
S/o. Sh. Danendra P. D. Singh,  
Residing at: A-607, Arihant Enclave,  
Near Jan Seva Hospital, Vapi – 396 191.
17. Amit Kumar Meena  
Aged: 32 years, working as Inspector of Central Excise,  
S/o. Sh. Umedi Lal Meena,  
Residing at: Flat No. A-106,Shivalik Heights,  
Swaminarayan Road, Chala, Vapi - 396 191.
18. Sajid Hussain,  
Aged 36 years, working as Inspector of Central Excise,  
S/o. Sh. Moajjam Hussain,  
Residing at: F.No. B-407,Nity Park,  
Customs Road, Chala, Vapi – 396 191.
19. Dheeraj Kumar,  
Aged: 36 years, working as Inspector of Central Excise,  
S/o. Sh. Jai Prakash Chandak,  
Residing at: Flat No. A1-204,Pramukh Oracle, Dungar Falia,  
Near Dabhal Check Post, Vapi – 396 191.
20. Gopesh Kumar,  
Aged: 33 years, working as Inspector of Central Excise,  
S/o. Sh. Shashi Bhushan Prasad Yadav,  
Residing at: 803, B1, Pramukh Oracle,Daman Road, Chala,  
Vapi – 396 191.
21. Munna Kumar,  
Aged: 36 years, working as Inspector of Central Excise,  
S/o. Sh. Chandradev Singh,  
Residing at: B2/503, Pramukh Oracle,Daman Road, Chala,  
Vapi – 396 191.
22. Ved Prakash Meena,

- Aged: 29 years working as Inspector of Central Excise,  
S/o. Sh. Ratan Singh Meena,  
Residing at: C-407, Shubham Tower-3  
Vapi-Daman Road, Chala, Vapi – 396 191.
23. Shri Manoj Kumar Meena,  
Aged: 34 Years, working as Inspector of Central Excise,  
S/o. Shri Mathura Prasad Meena,  
Residing at: Pramukh Residency, Flat No. 401-A, Chala,  
Vapi -Daman Road, Vapi – 396 191.
24. Ashok Kumar Meena,  
Aged: 36 years, working as Inspector of Central Excise,  
S/o. Shri Narayan Lal Meena,  
Residing at: I-6-5, Pramukh Residency,  
Daman Road, Chala, Vapi – 396 191.
25. Rakesh Prasad,  
Aged: 36 years, working as Inspector of Central Excise,  
S/o. Shri Sitaram Prasad  
Residing at: B2/702, Pramukh Greens, Chala, Vapi – 396 191.
26. Manish Kumar Nougriya,  
Aged: 36 years, working as Inspector of Central Excise,  
S/o. Shri Prahlad Prasad Nougriya,  
Residing at: Flat No. C-1/303,  
Yogi Hills, Basera Road, Amli, Silvassa -396 230.
27. Prem Prakash Dencherwal,  
Aged: 32 Years, working as Inspector of Central Excise,  
S/o. Shri Jagdish Prasad Meena,  
Residing at: B-503, Ishan Apartment,  
Vashi Falia, Halar, Valsad – 396 001.
28. Arun Kumar,  
Aged: 35 years, working as Inspector of Central Excise,  
S/o. Shri Som Prakash Agarwal,  
Residing at: E-202, Krutik, Nakshtra Heights,  
B/h. Gorwa Workshop, Gorwa, Vadodara – 390 003.
29. Om Prakash Meena,  
Aged: 32 years, working as Inspector of Central Excise,  
S/o. Shri Jasram Meena,  
Residing at: Plot No. 142, Ward No. 7B, Gurukul,  
Gandhidham, Gujarat – 370 201.
30. Rakesh Kumar Jajoria,  
Aged: 31 years, working as Inspector of Central Excise,  
S/o. Shri Banshidhar Jajoria,  
  
Residing at: Q.No. 122, Type – 3,

Central Revenue Colony, Vadodara – 390 003.

31. Vikash Shukla,  
Aged:36 years, working as Inspector of Central Excise,  
S/o. Shri P. N. Shukla,  
Residing at: Q.No. 305, Type – 3,Central Revenue Colony,  
Vadodara – 390 003.
32. Amit Kumar Mishra,  
Aged: 31 years, working as Inspector of Central Excise,  
S/o. Shri Akhilesh Mishra,  
Residing at: 21, Tulsidham Society,  
High Tension Road, Subhanpura,Vadodara – 390 023.
33. Prameshwar Pramanik,  
Aged: 36 years, working as Inspector of Central Excise,  
S/o. Shri Tewari Pramanik,  
Residing at: 98, Kanha Residency,  
Nr. St. Basil School, Opp. Voltamp, Maneja,  
Vadodara – 390 013.
34. Sarvesh Kumar Singh,  
Aged: 37 years, working as Inspector of Central Excise,  
S/o. Shri Ram Ishwar Singh,  
Residing at: Q.No. 254, Type -3,  
Central Revenue Colony,Vadodara – 390 003.
35. Kanwaljit Singh,  
Aged:39 years, working as Inspector of Central Excise,  
S/o. Shri Lt. Shri Harjit Singh,  
Residing at: Q. No. 111, Type – 3,  
Central Revenue Colony,Vadodara – 390 018.
36. Akhilesh Kumar Gupta,  
Aged: 31 years, working as Inspector of Central Excise,  
S/o. Shri P. L. Gupta,  
Residing at: 504, K. Tower,  
Gunatit Residency, Nr. Gotri Pond,  
Behind Gayatri Nagar Watertank, Gotri, Vadodara 390 021.
37. Yogesh Damachya,  
Aged: 30 years, working as Inspector of Central Excise,  
S/o. Shri Jamna Lal Meena,  
Residing at: Q.No. 302, Type – 3,  
Central Revenue Colony,Vadodara -390 003.
38. Deepak Kumar,  
Aged: 36 years, working as Inspector of Central Excise,  
S/o. Late Shri Mahesh Mishra,  
Residing at: E- 203, Earth Acropolis – 3,  
Vasna-Bhayali Road,Behind Bright Day School,

Vadodara – 390 012.

39. Sandeep,  
Aged: 33 years, working as Inspector of Central Excise,  
S/o. Shri Ramnivas,  
Residing at: Q. No. 113, Type - 3,  
Central Revenue Colony, Race Course,  
Vadodara – 390 007.
40. Vinod Kumar,  
Aged: 36 years, working as Inspector of Central Excise,  
S/o. Late Shri Gokhula Prasad Singh,  
Residing at: Q.No. 114, Type – 3,  
Central Revenue Colony, Race Course,  
Vadodara – 390 007.
41. Abhishek Shrivastwa,  
Aged: 36 years, working as  
Inspector of Central Excise,  
S/o. Shri Harendra Prasad Shrivastwa,  
Residing at: Flat No. 203, White House Apartment,  
Street No. 3, Navanagar Wada,  
Junagadh – 362 001.
42. Vikash Kumar Srivastava,  
Aged: 39 years, working as Inspector of Central Excise,  
S/o. Shri D. N. Prasad,  
Residing at: C-501, Samarpan Heights,  
Jahangirpura Ugat Canal Road, Surat – 395 005.
43. Rahul Kumar,  
Aged: 35 years, working as Inspector of Central Excise,  
S/o. Shri Navin Mohan Prasad,  
Residing at: C/1 – 12 BSNL Colony, Ghod Dod Road,  
Surat – 395 007.
44. Vikas Gupta,  
Aged: 36 years, working as Inspector of Central Excise,  
S/o. Shri Vijay Kumar Gupta,  
Residing at: Flat No. A2/204,  
Smeet Residency, Nr. Mathura Nagari,  
Palanpur Gam, Surat – 395 005.
45. Amresh Ranjan,  
Aged: 37 years, working as Inspector of Central Excise,  
S/o. Shri Upendra Prasad Bharti  
Residing at: House No. 401, Sterling Heights, Ugat Canal Road,  
Jahangirabad, Surat – 395 005.
46. Neha Goel,

Aged: 31 years, working as Inspector of Central Excise,  
D/o. Shri Arun Kumar Goel,  
Residing at: A/403, Stuti Arista, Palanpur, Surat – 395 005.

47. Ankur Sinha,  
Aged: 35 years, working as Inspector of Central Excise,  
S/o. Shri Satyendra Prasad Singh,  
Residing at: A-301, Stuti Arista,  
Palanpur, Surat – 395 009.
48. Ujjwal Kumar,  
Aged: 34 years, working as Inspector of Central Excise,  
S/o. Shri Uday Nath Prasad,  
Residing at: A-1/101,  
Sai Milan Residency, Palanpur Gam,  
Surat - 395 005.
49. Chander Deo Bharti,  
Aged: 36 years, working as Inspector of Central Excise,  
S/o. Shri Sadanand Mehta,  
Residing at: Vaishnodevi Township,  
Near B. R. Park Society, Jahangirpura,  
Surat – 395 005.
50. Gopal Lal,  
Aged: 39 years, working as Inspector of Central Excise,  
S/o. Shri Nathu Lal,  
Residing at: 17, Tirupati Balaji Society,  
Opp Bhoomi Complex, Adajan, Surat – 395 009.
51. Narendra Kumar,  
Aged: 30 years, working as Inspector of Central Excise,  
S/o. Shri Gopi Ram,  
Residing at: E-304, Shreepad Ethics,  
B/h. Raj World Shopping Centre, Palanpura Gam, Surat – 395 009.
52. Rajesh Bhati,  
Aged: 39 years, working as Inspector of Central Excise,  
S/o. Shri Ram Chandra Bhati,  
Residing at: R-404, vaishnodevi  
Township, Nr. B.R. Park Society, Jahangirpura, Surat – 395 005.
53. Avinash Kumar,  
Aged: 36 years, working as Inspector of Central Excise,  
S/o. Shri Pramod Kumar Verma,  
Residing at: A-604, Shree Raj Residency,  
Nr. Parshuram Garden, Adajan, Surat -395 009.
54. Sanjay Kumar,  
Aged: 45 years, working as Inspector of Central Excise,  
S/o. Shri Ramashish Choudhary,

Residing at: F-101, Smeet Residency, T.P. 09, Palanpura Gam,  
Surat - 395 005.

55. Vijay Parashar,  
Aged: 39 years, Inspector of Central Excise,  
S/o. Shri Suresh Chandra Sharma,  
Residing at: C-801, Shree Sai Residency,  
Near Parshuram Garden, Adajan, Surat – 395 009.
56. Aditya Pande,  
Aged: 32 years, working as Inspector of Central Excise,  
S/o. Late Shri Jagdish Chandra Pande,  
Residing at: A-102, Sainath Plaza,  
Rajesh Tower Road, Gotri, Vadodara – 390 021.
57. Jaya Pandey,  
Aged: 33 years, working as Inspector of Central Excise,  
D/o. Shri Dinesh Chandra Pandey,  
Residing at: A-102, Sainath Plaza,  
Rajesh Tower Road, Gotri, Vadodara – 390 021.
58. Subodh Kumar,  
Aged: 41 years, working as Inspector of Central Excise,  
S/o. Shri Kameshwar Prasad Singh,  
Residing at: Q. No. 303, Type – III,  
Central Revenue Colony, Race Course Circle, Vadodara – 390 007.
59. Vinay Kumar Soni,  
Aged: 38 years, working as Inspector of Central Excise,  
S/o. Shri Purushottam Das Soni,  
Residing at: House No. 05, Neelkanth Bungalows,  
Plot No. 248/249, Ward 10A,  
Gurukul Area, Gandhidham (Kutch), Gujarat – 370 201.
60. Pradeep Meena,  
Aged: 31 years, working as Inspector of Central Excise,  
S/o. Shri Ramroop Meena,  
Residing at: S4, Mansi Flat, Plot No. 118-119,  
Ward 7B, Gurukul, Gandhidham (Kutch), Gujarat – 370 201.
61. Badram Meena,  
Aged: 38 years, working as Inspector of Central Excise,  
S/o. Shri Ranjeet Meena,  
Residing at: S4, Mansi Flat, Plot No. 118-119,  
Ward 7B, Gurukul, Gandhidham (Kutch), Gujarat – 370 201.
62. Shilpi Pathak,  
Aged: 35 years, working as Inspector of Central Excise,  
D/o. Shri Brajesh Narayan,  
Residing at: Type 3/112, Central Revenue Colony,  
Race Course, Vadodara – 390 007.



63. Sheo Shankar Kumar,  
Aged: 35 years, working as Inspector of Central Excise,  
S/o. Shri Surajmal Prasad,  
Residing at: Flat No. 101A, Sankalp Flats,  
Nr. Munni Dairy, Airport Road, Bhavnagar - 364 001.
64. Siddhartha Tiwari,  
Aged: 30 years, working as Inspector of Central Excise,  
S/o. Shri Jainath Prasad Tiwari,  
Residing at: B-2, 704, Nakshatra Platinum,  
Palanpur Gam Road, Surat – 395 009.
65. Sarikakumari A.K. Singh,  
Aged: 35 years, working as Inspector of Central Excise,  
D/o. Shri A. K. Singh,  
Residing at: E-102, Jasan Residency,  
Chankyapuri, Near Sama Road, Vadodara – 390 008.
66. Dhiraj Kumar jha,  
Aged: 34 years, working as Inspector of Central Excise,  
S/o. Late Vishwanath Jha,  
Residing at: 105, Type – III,  
Central Revenue Colony, Race Course, Vadodara – 390 007.
67. Gaurav Srivasrtava,  
Aged: 40 years, working as Preventive Officer,  
S/o. Shri Ram Prakash Srivastava,  
Residing at: H.N. – 11, Shiv Township,  
Mundra Gandhidham Road, Mundra – 370 405.
68. Ravi Kumar Gupta,  
Aged: 34 years, working as Preventive Officer,  
S/o. Shri Ram Lal Gupta,  
Residing at: 7, Manoratham Bungalow,  
Nr. Dahej Bypass, Shravan Chokadi, Bharuch - 392 001.
69. Mukesh Kumar Jha,  
Aged 37 years, working as Preventive Officer,  
S/o. Shri Ganesh Jha,  
Residing at: A-2/9, Om Bungalows,  
Laxmipura-Godba Road, Vadodara – 390 016.
70. Praveen Kumar Mishra,  
Aged: 33 years, working as Preventive Officer,  
S/o. Shri Subhash Mishra,  
Residing at: Plot No. 252, Gurukul,  
Gandhidham – 370 201.
71. Pankaj Kumar Singh Gautam

- Aged: 37 years, working as Inspector of Central and Excise,  
S/o. Shri Gauri Shankar Singh,  
Residing at: D-804, Stuti Arista,  
Nr. New L.P. Savani School, Palanpur, Surat 395 005.
72. Rajeev Kapoor,  
Aged: 36 years, working as Preventive Officer,  
S/o. Shri Jai Prakash Mehta,  
Residing at: C-61, Vishwanath Township,  
Near Tulsidham Sabji Market, Bharuch – 392 001.
73. Abhishek Shukla  
Aged: 41 years, working as Preventive Officer,  
S/o. Shri Tirth Ram Shukla,  
Residing at: 106, Type – III,  
Central Revenue Colony, Race Course,  
Vadodara – 390 007.
74. Ratnakar Jha,  
Aged: 38 years, working as Preventive Officer,  
S/o. Shri Babu Lal Jha,  
Residing at: A-202, New Alkapuri  
Residency, Gotri-Sevasi Road, Vadodara – 390 021.
75. Sneha Sanjay Handa,  
Aged: 32 years, working as Inspector of Central Excise,  
D/o. Late Jamuna Prasad,  
Residing at: K-402, Sterling Heights,  
Ugat Canal Road, Palanpur, Surat – 395 005.
76. Chitendra Singh Chahar,  
Aged: 38 years, working as Inspector of Central Excise,  
S/o. Suraj Bhan Chahar,  
Residing at: D-202, Brahma Residency,  
New Alkapuri, Gotri, Vadodara – 390 021.
77. Amit Kumar Mishra,  
Aged: 34 years, working as Preventive Officer,  
S/o. Shri Krishna Kant Mishra,  
Residing at: Flat No. 5, Balaji Enclave, Plot No. 1, Sector-2,  
Near IFFCO, Gandhidham-370 203.
78. Aditya Kumar,  
Aged: 31 years, working as Inspector of Central Excise,  
S/o. Shri Jalim Prasad Gupta,  
Residing at: A-13, Sangam Row House,  
Behind CNG Pump, Pal, Surat – 395 005.
79. Harindra Kumar Yadav,  
Aged: 35 years, working as Inspector of Central Excise,  
S/o. Shri Rajaram Yadav,

Residing at: J-402, Sterling Heights,  
Ugat Canal Road, Palanpur, Surat – 395 005.

80. Kamruzzma Ansari,  
Aged: 35 years, working as Inspector of Central Excise,  
S/o. Shri Mehmmod Hussain Ansari,  
Residing at: 309, Type – III,  
Central Revenue Colony, Race Course, Vadodara – 390 007.
81. Ram Singh,  
Aged: 37 years, working as Preventive Officer,  
S/o. Shri Ganpat Ram,  
Residing at: D-303, Stuti Arista,  
Near New L. P. Savani School, Palanpur, Surat – 395 005.
82. Rahul Sihag,  
Aged: 35 years, working as Inspector of Central Excise,  
S/o. Shri Shivpal Singh Sihag  
Residing at: 404, Nakshtra Height, Nr. Jamnotri Party Plot,  
Sama-Savali Road, Vadodara – 390 021.
83. Anand Jaiswal,  
Aged: 30 years, working as Inspector of Central Excise,  
S/o. Shri Durga Prasad Jaiswal,  
Residing at: 202, Rajhans Campus,  
Pal-Hazira Road, Surat 394 270.
84. Amarjit Kumar,  
Aged: 34 years, working as Intelligence Officer,  
S/o. Shri Rajkumar Prasad,  
Residing at: F-301, Shridhar Residency,  
B/s. Sun Pharma R&D, Vadodara – 390 012.
85. Rajeshwer Prakash Gupta,  
Aged: 43 years, working as Inspector of Central Excise,  
S/o. Shri Sharad Prasad Gupta,  
Residing at: j-302, Vaishnodevi Township,  
Jahangirpura, Surat – 395 009.
86. Mukesh Kumar,  
Aged: 34 years, working as Preventive Officer,  
S/o. Shri Manbodh Kumar,  
Residing at: Flat No. 8, Balaji Enclave, Plot No. 1, Sector-2,  
Near IFFCO, Gandhidham – 370 203.
87. Hariom  
Aged: 34 years, working as Inspector of Central Excise,  
S/o. Shri Rakshpal,  
Residing at: H-303, Sterling Heights,  
Ugat Canal Road, Palanpur, Surat – 395 005.

88. Manoj Kumar,  
Aged: 34 years, working as Preventive Officer,  
S/o. Shri Anant Prasad Singh,  
Residing at: Plot No. 141, Tenament No. 4, Ward-7B  
Gurukul, Gandhidham – 370 201.
89. Devendra Singh,  
Aged: 30 years, working as Preventive Officer,  
S/o. Shri Bannedan Ujjawal,  
Residing at: Nr. Gurukul School, Gandhidham – 370 201.
90. Manohar Kumar,  
Aged: 37 years, working as Preventive Officer,  
S/o. Shri Ram Narayan Shah,  
Residing at: House No. 10,  
Shiv Township, Mundra-Gandhidham Road, Mundr – 370 405.
91. Rohan Arora,  
Aged: 30 years, working as Inspector of Central Excise,  
S/o. Shri Nandal Arora,  
Residing at: C-101, Nandanvan-3,  
Nandini Apartment, Vesu-Abhva Road, Vesu, Surat – 395 007.
92. Rajeev Guggal,  
Aged: 32 years, working as Inspector of Central Excise,  
S/o. Shri Ved Prakash,  
Residing at: A-303, Sanghat Residency,  
Near Aagam Shopping World, Vesu, Surat – 395 007.
93. Ravindra Kumar,  
Aged: 36 years, working as Inspector of Central Excise,  
S/o. Shri Kailash Singh,  
Residing at: A-102, Stuti Apartment,  
Nr. Maheswari Bhawan, Muktanand Marg, Chala,  
Vapi – 396 191.
94. Abhishek Mishra,  
Aged: 33 years, working as Inspector of Central Excise,  
S/o. Shri Ramroop Mishra,  
Residing at: A-1/304, Pramukh Oracle,  
Nr. Daman Gate, Chala, Vapi -396 191.
95. Anita Meena,  
Aged: 31 years, working as Inspector of Central Excise,  
D/o. Shri Kailash Chandra Meena,  
Residing at: 12, Sajni Row House, B/h. Shivalik Heights,  
Swaminarayan Gurukul Road, Chala, Vapi – 396 191.
96. Uma Nath Choudhary,  
Aged: 36 years, working as Inspector of Central Excise,  
S/o. Shri Shreeddeo Chaudhary,

Residing at: K-301, Sun Residency,  
Daman Road, Chala, Vapi – 396 191.

97. Sandip Kumar,  
Aged: 35 years, working as Inspector of Central Excise,  
S/o. Shri Ramchandra Singh,  
Residing at: H-204, Sun Residency,  
Daman Road, Chala, Vapi - 396 191.
98. Hans Ram Meena,  
Aged: 27 years, working as Inspector of Central Excise,  
S/o. Shri Madan Lal Meena,  
Residing at: D-903, Pramukh Sahaj,  
Muktanand Marg, Chala, Vapi – 396 191.
99. Praveen Kumar Meena,  
Aged: 31 years, working as Inspector of Central Excise,  
S/o Shri Kunjilal Meena,  
Residing at D-803, Pramukh Sahaj,  
Muktanand Marg, Chala, Vapi – 396 191.
100. Goutam Govinda,  
Aged: 34 years, working as Inspector of Central Excise,  
S/o. Shri Akhila Nand Pandey,  
Residing at: D-304, Stuti Icon, Palanpur Gam Road,  
Surat – 395 009.
101. Rajesh Kumar,  
Aged: 42 years, working as Inspector of Central Excise,  
S/o. Late Gopal Shah,  
Residing at: 201, Gunatit Residency,  
Nr. Gayatri School, Gotri, Vadodara.
102. Praveen Kumar,  
Aged: 34 years, working as Preventive Officer,  
S/o. Shri Bhagwat Prasad,  
Residing at: Tenament 1,  
Plot No. 197 Ward-10A, Gurukul,  
Gandhidham -370 201.
103. Jay Prakash Singh  
Aged: 33 years, working as Preventive Officer,  
S/o. Shri Ram Chandra Singh,  
Residing at: Plot No. 9/A,  
Samarpan Society, Street No.1, Raiya Road Rajkot – 360 007.
104. Alok Mishra  
Son of Shri Laxminath Mishra,  
Aged about 32 years, Working as Superintendent of CGST and Customs,  
  
Residing at: C-104, Aryman Apartment,

Anand Party Plot Road, New Ranip, Ahmedabad – 382 470.

105. Kamal Kishor Sharma,  
Son of Shri Om Prakash Sharma,  
Aged about 33 years, Working as Superintendent of CGST and Customs,  
Residing at: 74/881, Ambika Apartment,  
Near Shastri Nagar BRTS Naranpura, Ahmedabad – 380 012.
106. Ravi Shanker,  
Son of Shri Jagdish Chandra,  
Aged about 34 years, Working as Superintendent of CGST  
and Customs, Ahmedabad.  
Residing at: C-202, Dharti Crystals Apartment,  
IOC Road, Chandkheda, Ahmedabad – 382 424.
107. Maya Shankar Prabhat,  
Son of Shri D. N. Jha,  
Aged about 35 years, Working as Superintended of CGST  
and Customs, Surat.  
Residing at: I-1002, Shrungar Residency, VIP Road, Vesu,  
Surat – 395 007.
108. Shitala Prasad Singh,  
Son of Shri Lalji Singh  
Aged About 37 Years, Working as Superintendent of CGST  
and Customs, Surat.  
Residing at: C-10107, Rudra Enclave, Althan, Surat – 395 017.
109. Waseem Ahmad,  
Son of Shri Naseem Ahmad,  
Aged about 35 years, Working as Superintendent of CGST  
and Customs, Surat.  
Residing at: 304, Maviya Residency,  
Causeway Road, Rander, Surat – 395 009.
110. Nishant Niraj,  
Son of Shri S. R. Singh,  
Aged about 34 years, Working as Superintendent of CGST  
and Customs, Surat.  
Residing at: E5/14, 1105 B,  
Green City, Bhatha, Surat – 395 009.
111. Rajeev Kumar (Aged about 36 years)  
S/o. Shri Jagat Narayan Prasad, Working as Superintendent of CGST  
and Customs, Surat.  
Residing at: D-802, Nakshtra View,  
Palanpur, Canal Road, Surat – 395 009.
112. Kishore Kumar Upadhyay (Aged about 35 years)  
S/o. Shri Raghvendra Prasad Upadhyay, Working as  
Superintendent of CGST and Customs, Surat.

Residing at B-1002, Swapna Sangini, VIP Road,  
Vesu, Surat – 395 007.

113. Vishnu Kumar Sharma (Aged about 32 years)  
S/o Shri Radheshyam Sharma, Working as Superintendent of CGST  
and Customs, Surat.  
Residing at: D-604, Nakshtra Solitare,  
Canal Road, palanpur, Surat – 395 009.
114. Navneet Kishore (Aged about 36 years)  
S/o. Shri Budlu Ram, Working as Superintendent of CGST  
and Customs, Surat.  
Residing at: Type – III/27,  
Central Revenue Colony, Athwa Lines, Surat – 395 001.
115. Bharat Kumar Sharma (Aged about 32 years)  
S/o. Shri Gokul Ram Sharma, Working as Superintendent of CGST  
and Customs, Surat.  
Residing at: House No. 46, Shiv Drishti Raw House,  
Subhash Garden, Surat – 395 005.

...Respondents

By Senior Advocate I. H. Syed with Advocate  
Mr. Prithu Parimal (respondents nos. 6 to 13, 17, 18,  
20 to 22, 24 to 55, 59, 63 to 69, 71 72, 74 to 82,  
84 to 87, 91, 93 to 100 & 107 to 115) &  
Advocate Mr. A. L. Sharma (Respondents nos. 104 to 106)

## **ORDER**

### **Hon'ble Shri J V Bhairavia, Member(J)**

**1** By filing captioned Original Application under section 19 A.T. Act 1985,  
the applicants seek the following reliefs,

- (i) Be Pleased to Quash and set aside such unilateral action and inaction of respondent authority vide communication dated 05.08.2020 along with [tentative list] appended with at ANNEXURE-A1 for review of promotion given vide order dated 26.06.2017, 13.07.2017 and 25.06.2018 and 25.06.2019 by forming DPC on or after 28.08.2020 resulting to reversion and altering the seniority of the petitioner and hold such action of respondent authority to be bad in law, passed in gross violation of principles of natural justice and fair play, being arbitrary, illegal, in excess of powers, null and void ab initio, being ultra-virus to meet with ends of justice;  
And
- (ii) Quash and set aside the Establishment Order No. 15/2020, dated 10.02.2020, at ANNEXURE A2 issued by respondent authority vide which 5 (five) Inspector even though junior to petitioner as per the Rules / OMs governing the field, have been given promotion along with consequential seniority in the grade of Superintendent, by ante-dating their promotion with effect from 27.06.2017 resulting to adversely altering the seniority of the petitioner;  
And

- (iii) Further be pleased to direct the respondent authorities to prepare fresh seniority list as per applicable rules, OM's and instructions of DOP&T with in stipulated time so prescribed by this court by quashing and set aside all the seniority list prepared after 31.12.2013 of Inspector:  
And
- (iv) Be pleased to restore original seniority of applicants as stood in various seniority lists issued from the year 2009 to 2013 at annexure A 19 i.e. above the Direct Recruit Inspector of 2009 batch until then postpone all review of promotions by DPCs as being contemplated;  
And
- (v) Be pleased to grant all, just, proper, any other relief so deemed fit by the Hon'ble Court.

**1A** MA 229/2020 for joint application is allowed.

**2** The facts in brief as pleaded in the O.A. are as under:-

- 2.1** Pursuant to notification dated 24.06.1978 (Annexure A/6) issued by the DoP&T, the DPC for the promotion to the post of Inspector had met in the month of May 2008 and as per the recommendation applicants herein were appointed to the post of Inspector in the year 2008. On the other hand the private respondents herein were recruited and appointed as Inspectors in between December 2009/January 2010 and January 2011/February 2011 by way of direct recruitment.
- 2.2** The final seniority list of Inspector of Central Excise and Custom was published on 01.01.2009 (Ann. A/16), in the said list, the applicants herein were shown as seniors to the private respondents. Thereafter also, in the seniority lists published on 01.01.2010 (Ann. A/17), dated 02.02.2011 (Ann.A/18) and dated 10.2.2012 (Ann. A/19), the applicants herein were shown as seniors to the respondents. Based on the said seniority list as it existed on 1.4.2017, the applicants herein were promoted to the post of Superintendent vide order dated 27.6.2017 and 13.7.2017 respectively.
- 2.3** On the strength of decision of the Hon'ble Supreme Court of India dated 27.11.2012, in the case of N. R. Parmar (2012 (13) SCC 340, Ann. A/21), the private respondents were given seniority from the year 2006 and 2008 (depending upon SSC's examination year) along with promotee Inspectors of 2006 and 2008 based on "2 Direct : 1 Promotee" quota as envisaged in the existing Recruitment Rules for the cadre of Inspectors of Central Excise.
- 2.4** Following the decision of Full Bench, CAT, PB, Delhi dated 09.05.2011 in the case of Mrs. Garima Singh v/s. Union of India



(Annexure A/47) with respect to grant of relaxation of two years in eligibility criteria as per the O.M. dated 25.3.1996 (Annexure A/42), the Principal Bench of CAT vide order dated 12.05.2017 in the case Shri Pankaj Nayan & Ors v/s Union of India OA No.3405/2014 held that relaxation of two years in eligibility criteria of service was required to be granted to Direct Recruits employees who had not completed 08 years of regular service for promotion (Annexure A/48).

Similarly, in the case of Shri Rajeev Kumar & Ors v/s Union of India OA No.1885/2017 pertaining to the same department, the Principal Bench CAT vide its order dated 09.02.2018 re-iterated the decision passed in Pankaj Nayan case. (Annexure A/52).

**2.5** The direct recruit inspectors such as private respondents herein and other similarly appointed inspectors were not considered for promotion to the post of Superintendent since they did not have 08 years of regular service as Inspector as per the requisite eligibility for promotion. Aggrieved by their exclusion from promotion, the said private respondents preferred OA No.404/2017. Other similarly situated Direct Recruited Inspectors preferred different OAs being O.A. Nos. 239/2017, 242/2017 & 241/2017 before this Tribunal, seeking relaxation in the condition of regular service of eight years on the strength of DoPT's O.M. No. AB/14017/12-88-Estt(RR) dated 25.03.1996 (Annexure A/42) and prayed for a direction to respondents to grant them promotion to the grade of Superintendent in the light of in case of Pankaj Nayan (supra). The said OA No.404/2017 was disposed of by this Tribunal vide order dated 22.2.2018 (Annexure A-54) with direction to the respondents to consider the case of the private respondents as per observation and direction contained in Pankaj Nayan (supra)

**2.6** It is stated that the order passed in the Pankaj Nayan's case came to be challenged by official respondents i.e. Union of India & Ors before the Hon'ble Delhi High Court being Writ Petition (C) No.11277/2016.

During the pendency of the said writ petition against the order passed in Pankaj Nayan case, the respondent no.5 herein vide its order dated 04.06.2018 decided that subject to outcome of the pending

litigations the private respondents herein (original applicants of OA No.404/2017 & other connected OAs) were not entitled for relaxation of two years in eligibility and hence was not entitled to claim promotion in the higher grade of Superintendent (Annexure A/55).

**2.7** The said decision dated 04.6.2018 (Annexure A/55) was not challenged by the private respondents. However, after some time, said private respondents had filed Contempt Petition No.23/2018 in OA Nos.404/2017 and other similarly placed Direct Recruit Officers also filed Contempt Petitions such as CP No.20/2018 in OA No.232/2017 and other allied CPs before this Tribunal. The grievance raised in those Contempt Petitions was that the department had not considered their case in the light of directions issued by this Tribunal in OA No.404/2017 and that their cases ought to have been considered as per the observation/direction issued in Pankaj Nayan's case. The official respondents appeared in the said contempt proceedings and offered their explanation stating that they were in the process of conducting the review DPC and the claim of private respondents would be considered in light of directions issued in Pankaj Nayan's case and sought further four months time. Acceding to the request, this Tribunal vide order dated 26.06.2020 granted further time by observing that the respondents were expected to complete the exercise of holding review DPCs and take appropriate decision expeditiously but not later than four months from the date of receipt of copy of the said order (Annexure A-64).

**2.8** As the respondents vide order 04.06.2018 refused to grant two years relaxation to the private respondents in eligibility criteria for promotion, the said order remained unchallenged. Therefore, there was no occasion for the applicants to approach this Tribunal. The respondents vide impugned order dated 05.08.2020 (Annexure A/2) have decided to review the cases of the officers for promotion to the post of Superintendents as per the final seniority list dated 06.06.2017 and under the guise of directions issued in Pankaj Nayan case (supra) as well as direction issued in various other identical OAs, issued promotion orders vide impugned order dated 10.02.2020 (Annexure

A/1) in favour of the Direct Recruit Officers, though they are juniors to the applicants and not eligible for promotion. Hence, the present OA have been filed by the applicants.

**3** The learned counsel Mr Jairaj Chauhan for the applicants mainly submitted as under:-

- 3.1** In the cadre of Inspector, the applicants were senior to the private respondents since 2009 and based on the seniority lists published as also fulfilling the eligibility of regular service of 08 years, they came to be promoted to the post of Superintendent in the year 2017. However, the respondent no.5 in a discriminatory manner passed the impugned order pushing down the seniority of the present applicants with effect from 06.06.2017, that too in contravention to the rules and the instructions issued on the subject by Government of India from time to time.
- 3.2** It is submitted that the impugned decision is contrary to the orders passed by three Judges' Bench of the Hon'ble Supreme Court in K. Megha Chandra Singh vs. Nigam Siro reported in (2020) 5 SCC 689 wherein the ratio laid down in N R Parmar's case has been watered down. Therefore, in the present case the seniority assigned to the private respondents from the date of initiation of direct recruitment process, is not permissible in light of law laid down by the Hon'ble Apex Court in K. Megha Chandra Singh (supra).
- 3.3** The Hon'ble Apex Court in case of Jagdish Ch. Patnaik & Ors v/s State of Orissa & Ors reported in (1998) 4 SCC 456, held that *"Recruited means actual appointment and not the year in which vacancy occurred,"* and *"unless final selection was made and appropriate order passed thereon, no person can be said to have been recruited"* (Annexure A/13).
- 3.4** The Hon'ble Delhi High Court in case of UOI Vs. Shyam Sundar Verma & ors decided on 25.09.2017 materially reversed the ratio laid down in case of Garima Singh (Ann. A/58). Therefore, it is not open for the respondents to issue the impugned order and disturb the settled seniority of the applicants and the promotion granted to them.

4 *Per Contra*, the Official Respondents (i.e. the respondent nos. 1 to 5 herein), denied the claim and contentions of the applicants by filing their counter reply. The learned counsel Mr. H.D. Shukla appearing for the official respondents mainly submitted as under:

- 4.1 The Hon'ble Apex Court in N.R.Parmar Case held that the seniority of direct recruits is required to be determined and assigned from the date of initiation of recruitment process for the sanctioned posts.
- 4.2 Pursuant to the orders passed by this Tribunal in OA 405 of 2014 (filed by one Shri Vijaymur Makode) dated 15.12.2015 as also taking into consideration the order passed in identical case i.e. OA 148/2014 filed by one Shri Ved Prakash Gupta, the respondent no.5 circulated draft revised seniority list dated 17.05.2016 with respect to officers working in the grade of Inspectors as on 01.01.2014 and after inviting and considering the objections the said seniority was of Inspector as on 01.01.2014 has been declared as final seniority list vide order dated 06.06.2017 (Annexure A/3). As per the said final seniority list, \the direct recruits were assigned their seniority from the date of initiation of recruitment process in terms of law laid down in N.R.Parmar case.
- 4.3 Both the impugned orders have been issued in compliance of order passed by the Principal Bench in the case of Pankaj Nayan and Rajeev Kumar as well as the orders passed by this Bench of the CAT. In this regard, it was further submitted that the Writ Petition (C) 7743/2018 filed against the order dated 9.2.2018 passed by the Principal Bench, CAT in OA NO. 1885/2017 Rajjiv Kumar & Ors before the Hon'ble High Court of Delhi came to be dismissed vide order dated 29.10.2018. Therefore, in compliance of order passed in OA NO. 1885/2017, the impugned order dated 10.2.2020 (Annexure A/1) has been issued whereby five officers working in the Combined cadre of Gujarat State were promoted to the grade of Superintendent Group 'B.' notionally w.e.f. 17.06.2017 and their seniority in Superintendent Grade were also assigned accordingly.
- 4.4 The Hon'ble Apex Court in case of K. Megha Chandra Singh vs NingamSiro reported in (2020) 5 SCC 689 : (2020) 2 SCC (L&S) 204, reiterated the principle of law that "*seniority cannot be claimed from*

*a date when the incumbent is yet to be born in the cadre". In para 39 of the said judgment, the Hon'ble Apex Court held that we disapprove the norms on assessment of inter-se seniority, suggested in N R Parmar. Accordingly, the decision in N R Parmar is overruled. However, it is made clear that this decision will not affect the inter-se seniority already based on N.R. Parmar and the same is protected. This decision will apply prospectively except where seniority is to be fixed under the relevant Rules from the date of vacancy/the date of advertisement."*

- 4.5 In the above background of submissions and grounds, the learned counsel for the official respondents further submits that seniority list published on 06.06.2017 showing the position as on 01.01.2014 of Inspectors of Central Excise & Customs had attained finality and it is not open to the applicants to seek unsettling of the settled position of seniority.
- 5 On behalf of private respondent no.6 to 13, 17 to 18, 20 to 22, 24 to 55, 59, 63 to 69, 71 to 72, 74 to 82, 84 to 87, 91, 93 to 100 and 107 to 115 Advocate Shri Prithu Parimal appeared with Senior Advocate Shri I H Syed and filed their reply opposing the prayers of the applicants made in this O.A.
- 5.1 The learned Sr. Advocate at the outset submitted that the present OA is not maintainable for the reason that *lis* between the parties was now settled and this application is barred by Principles of *Res-judicata*. To buttress this submission, he submitted that the direct recruit inspectors including some private respondents herein had filed OA No.404/2017 before this Tribunal for grant of benefit of seniority in terms of law laid down by Hon'ble Apex Court in the N R Parmar case and order passed in Pankaj Nayan case (*supra*). In the said OA, the present applicants were impleaded as respondent nos.113 & 153 respectively. It is submitted that though notices were issued by this Tribunal, the present applicants chose not to enter appearance. Subsequently, this Tribunal vide order dated 22.02.2018 (Ann A/53), disposed of the said OA with a direction to the effect that the case of the applicants shall be looked into afresh in the light of judgment passed in OA 3405/2015 by Principal Bench, CAT and as per the observations in OA 169/2018 dated 15.01.2018. The order

dated 22.02.2018 passed in OA 404/2017 by this Tribunal and allied matters have not been challenged by the present applicants so far and therefore, the same has attained finality in eye of law.

- 5.2** The order passed by Principal Bench, CAT, Delhi in Pankaj Nayan case and Rajeev Kumar case have attained finality as the Writ Petitions filed by the UOI against the said orders were dismissed by the Hon'ble High Court of Delhi (Annexure R/8 & 9) .
- 5.3** It is not correct on the part of applicants to claim that they are seniors to the present Private respondents (the Direct Recruits). The private respondents for whom he appears have been assigned the seniority as per the law laid down in the case of Union of India v/s N R Parmar reported in (2012) 13 SCC 340, wherein the Hon'ble Apex Court has held that date of initiation of recruitment process should be taken for fixing the seniority of Direct Recruit Officers. The seniority assigned to the private respondents as per revised seniority list dated 06.06.2017 by the respondent no.5 has attained finality and as per the decision in Pankaj Nayan case and the order passed by this Tribunal, they are entitled to be considered for promotion to the post of Superintendent.
- 5.4** It is submitted that there is distinction between the Central Secretariat Rules 1962 and the Superintendents of Central Excise Recruitment Rules 1986. In the Garima Singh's case, the parties therein were governed by the Central Secretariat Rules, 1962, which were subsequently repealed by the Central Secretariat Rules, 2009. The OM dated 25.3.1996 of the DOP&T has not been incorporated in the new CCS (Rules), 2009. However, in the present case, the rules applicable to the parties are the "Superintendents of Central Excise Recruitment Rules 1986". The said 1986 rules precedes the OM NO. AB-14017/12/88-Estt. Dated 25.3.1996 issued by DOP&T. Hence, the said OM has to be read with the Recruitment rules of 1986. Further, the Ministry of Finance (Department of Revenue) has taken suitable steps to amend the recruitment rules with regard to grant of relaxation to seniors in qualifying eligibility for promotion as relaxation afforded under OM dated 25<sup>th</sup> March, 1996 to the direct recruits. In this regard, the learned counsel placed reliance on

amended rules notified under Gazette notification dated 13<sup>th</sup> December, 2018 (Ann. R/21).

6. On behalf of private respondent Nos. 104, 105 & 106 learned counsel Mr. Anand Sharma appeared and by filing the counter reply denied the contentions raised by applicants broadly on the grounds similar to the ones raised by official respondents and other private respondents. He submits that:

6.1 The official respondents herein issued impugned order dated 05.08.2020 and order dated 10.02.2020 in compliance of directions issued by Principal Bench of this Tribunal in O.A. No. 3405/2014 in Pankaj Nayan and Others Vs. UOI, as this decision attained finality with the dismissal of Writ Petition (CC) No. 7743 of 2018. Therefore, it is not open for applicants to claim anything contrary to the direction issued by this Tribunal.

6.2 The seniority of the private respondents i.e. direct recruits was determined by the respondents in terms of ratio laid down by the Apex Court Judgment in N R Parmar case and the direction issued by this Tribunal. The said seniority list was confirmed by this Tribunal and now as per the decision in the case of **K. Megha Chandra**(supra) (Annexure A/34), the same stands protected.

7. Rejoinder has been filed by the applicants denying the averments and submissions of the official respondents as well as the private respondents. The applicants re-iterated the submissions of the OA. Additionally it is contended as under:

7.1 So far as objection raised qua *res judicata* is concerned, it was submitted that the prayers sought in OA No. 404/2017 (Ann. A/75 referred) filed by present private respondents herein & other similarly placed direct recruit Inspectors, were not granted by this Tribunal while disposing the said OA. On the contrary, in view of interim order passed by this Tribunal in the said OA, the promotion of present applicants to the cadre of Superintendent was not altered with because the prayer to set aside the promotion of present applicants to the post of Superintendent as sought in OA No. 404/2017 was not granted by this Tribunal. It was further stated that the present applicants could not get chance to defend their

case for want of notice and before they could appear, the said OA was disposed of vide order dated 22.2.2018.

- 7.2** The learned counsel additionally submitted that as per OM dated 24.06.1978 the starting point in the recruitment roster should be that mode of recruitment prescribed in the recruitment rules for which the selection process has been completed first. The date of completion of selection process in the case of direct recruits (a) through examination conducted by UPSC or any other authority – in that case the date of publication and announcement of result should be the date of selection process and (b) direct recruitment through interviews conducted by UPSC or any other authority, the date of commission's letter containing their recommendation should be the date of completion of selection process. Therefore the directions issued in the case of Vijay Makode de hors the instructions contained in OM dated 24.6.1978. It is not correct on the part of the respondents to contend that the seniority list as on 1.1.2014 was finalized on 6.6.2017. The respondents failed to follow instructions contained in clause 5(h) and 5(i) of OM dated 4.3.2014 and attempted to justify its misdeed on the pretext that the said seniority was prepared in compliance of the order passed on 15.12.2015 in Vijay Makode case.
- 7.3** The applicants were promoted to the grade of Inspector in 2008 and the department had shown their seniority above the direct recruits who were subsequently born in the cadre. The said seniority of the applicants continued till 2013 indicating the applicants senior to the private respondents. It is vehemently submitted by the counsel for the applicant that the seniority assigned to the promotee prior to judgment pronounced in N R Parmar case had attained finality.
- 7.4** It is stated that order of Garima Singh came to be passed by Full Bench of the Principal Bench, CAT, Delhi on 9.2.2011. Relying upon the said decision the Principal Bench, CAT, Delhi decided the case of Pankaj Nayan on 12.05.2016. Thereafter, the Hon'ble High Court of Delhi in case of Union of India Vs. Shyam Sundar & Ors. decided on 25.9.2017 took a different view than the ratio laid down in Garima Singh (Ann. A/58). Further, it is submitted that Hon'ble Delhi High Court in case of



Veena Kothawale v/s Union of India & Ors as well as in the case of Diwakar Singh v/s Union of India vide its common order dated 22<sup>nd</sup> January 2018 (Annexure A/30) after considering judgment passed in N R Parmar case and the OM dated 04.03.2014 (supra) and in the revised seniority list based on N R Parmar case, held that the seniority of the officers determined and finalized prior to N R Parmar case cannot be unsettled. Therefore, official respondents ought not to have followed the direction issued in Pankaj Nayan case and alter the seniority of the applicants.

8. Heard the learned advocates for the respective parties at length and perused the material available on record of the O.A.
9. The present OA straddles on a very narrow compass of controversy between two classes of employees, namely promotee Inspectors vs. directly recruited Inspectors. The crux of the grievance voiced in the present OA by the applicants who are promotee inspectors/Superintendent is about legality and validity of granting the benefits of the law laid down by the Hon'ble Supreme Court in N. R. Parmar's case decided on 27.11.2012 reported in (2012) 13 SCC 340 as also orders passed by various Bench of this Tribunal to the private respondents – i.e. direct recruits while counting their seniority and eligibility for promotion to the post of Superintendent, which in its effect not only adversely affects the seniority position of the applicants herein, but by the impugned action the applicants apprehend that they will have to face reversion on that count.
10. On going through the materials placed on record, the undisputed facts are revealed as under:-
  - 10.1 That the applicants herein were granted promotion to the post of Inspector in Central Excise & Customs, Vadodara Zone in the year 2008, whereas the private respondents directly joined as Inspectors in the years 2009-2011 on passing the Combined Graduate Level Examination. Accordingly, the applicants herein are promotee Inspector in the department whereas the private respondents are the directly recruited Inspectors.
  - 10.2 That in the seniority lists published during the years 2009 to 2012, the applicants were shown as senior to the private respondents. Thereafter,

the Hon'ble Apex Court, while considering the dispute about true interpretation of the OM dated 07.02.1986 and 03.07.1986 read with the clarificatory Office Memorandum dated 03.03.2008 and Office Notes with regard to determination of inter-se seniority between the directly recruited income tax Inspectors and promotee Inspectors delivered the decision in case of Union of India & Ors v/s N R Parmar & Ors alongwith other connected appeals on 27.11.2012 [reported in (2012) 13 SCC 340], wherein the Hon'ble Apex Court held that *“the direct recruits will have to be interspaced with promotees of the same recruitment year and decline the claim of promotees that the direct recruit income tax inspector should be assigned seniority with reference to the date of their actual appointment in the Income Tax department”*.

**10.3** Pursuant to the judgment passed by Hon'ble Apex Court in the case of N R Parmar, the DoP&T issued OM dated 04.03.2014 (Ann. A/22), whereby various instructions were issued with respect to inter-se seniority list of direct recruits and promotees which includes the instruction: “For assignment of inter-se seniority recruitment year would be the year of initiating the recruitment process and the available direct recruits and promotees for assignment of inter-se seniority, would refer to the direct recruits and promotees who are appointed against the vacancies of recruitment year. Further, for determination of inter-se seniority it would be effective from 27.11.2012 i.e. the date of judgment passed in N R Parmar case.

**10.4** The direct recruit inspectors (preventive officers) working in Maharashtra had filed OA No.741/2013 before Bombay Bench of this Tribunal as they have not been granted seniority as per the dictum of the Hon'ble Apex Court in N R Parmar case. The said OA, alongwith other connected matters came to be partly allowed vide order dated 06.05.2014 (Ann A/23), by directing the respondents to prepare a fresh draft seniority list by strictly following the judgment rendered in N R Parmar case by ignoring the effective date 27.11.2012 to determine inter-se seniority as contained clause 5(h) of DoP&T OM dated 04.03.2014. The said order came to be challenged by Union of India before the Hon'ble High Court of Bombay in Writ Petition No. 6785 of 2014. The Hon'ble High Court vide order dated 22.11.2014 (Ann. A/24) declined to interfere

with the order passed by CAT, Bombay Bench and confirmed the view that provisions of prospective effect contained in DoP&T OM dated 04.03.2014 is not maintainable.

**10.5** Identically placed direct recruit officers such Ved Gupta and Ors working as Inspector of Central Excise (Vadodara Zone, Gujarat) had also filed OA 148/2014 and claimed benefit of the N R Parmar case to determine the seniority and promotion to the post of Superintendent. By way of the Interim Order dated 22.02.2014, this Tribunal directed the respondents to prepare correct seniority list in terms of N R Parmar case. Accordingly, the Office of the Chief Commissioner, Central Excise, Custom and Service Tax, Vadodara Zone i.e. respondent no. 5 herein prepared revised draft seniority list of Inspectors of Central Excise and Customs as on 01.04.2014 and same was circulated on 14.10.2014. The said draft seniority list was finalized vide order dated 11.05.2015 (Annexure A/25). Subsequently, the said OA 148/2014 was withdrawn as the grievance of the applicant therein stood redressed.

**10.6** Another directly recruited Inspector of year 2003, namely one Shri Vijay Makode filed OA No. 405/2014 before this Bench of the Tribunal, seeking benefits of N. R. Parmar's case. This Tribunal after considering the ratio laid down in N R Parmar case as also by referring to the order passed by CAT Bombay Bench in OA 741/2013 disposed of said OA vide order dated 15.12.2015 directing the respondents to consider the case of the applicants seniority from 2003 vis-a-vis the promotee officers promoted in 2003 and further directed that the applicants therein may accordingly be interspaced with promotee officers. It was also held that there shall be no other dilution or modification in the rules concerning their promotion (Ann. A/26). Again pursuant to the order passed in Vijay Makode's case, revised draft seniority list of Inspectors of the combined cadre of (promote – direct recruitee) Gujarat Zone as on 01.01.2014 was circulated on 17.05.2016 (Ann. A/70). After considering the representations/objections the said draft seniority list dated 17.05.2016 was declared as final seniority list vide order dated 06.06.2017 [Ann. R/16(3)] wherein the direct recruits i.e. private respondents were shown as senior to the applicants.

**10.7** The applicants did not challenge the said seniority list dated 06.06.2017.

**10.8** The Inspectors of Central Excise working in Delhi Zone such as Pankaj Nayan and Ors had filed OA 3405/2014 before the Principal Bench of this Tribunal aggrieved by non-inclusion of their name in the eligibility list prepared for promotion to the post of Superintendent, Central Excise and sought relief for direction to consider their case by relaxing two years of service as per DoP&T OM dated 25.03.1996 as also in accordance with the law laid down by Full Bench of this Tribunal in Ms Garima Singh & Ors v/s Union of India (OA No.3278/2010 decided on 09.05.2011).

The said OA (i.e. Pankaj Nayan & Ors v/s. Union of India) was allowed vide order dated 12.05.2016 (Annexure A/48), to the extent that the applicant deserved to be considered for promotion by granting them relaxation upto two years in eligibility service as laid down in OM dated 25.03.1996. Further it was directed that eligibility list needed to be withdrawn accordingly and if juniors to the applicant were promoted, then a review DPC was needed to be convened and applicants needed to be considered for grant of promotion from the date/dates of their immediate junior got promotion with consequential benefits of pay fixation and seniority.

**10.9** Other direct recruit inspectors working in Vadodara Zone, Gujarat such as applicants aggrieved by order passed in OA 405/2014 in the case of Vijay Makode and the decision of respondent no.5 herein granting benefit of seniority to the direct recruits as per law laid down in N R Parmar case as also finalizing the draft seniority list vide order dated 06.06.2017 had filed OA 322 of 2018 and 311 of 2018 before this Tribunal, which came to be disposed of as withdrawn as per order dated 27.9.2018 and 28.2.2020 of this Tribunal. (Annexure R/17 colly). **This renders the seniority list dated 6.6.2017 unaltered and thereby it has attained finality.**

**10.10** In the meantime as the applicants herein had completed 8 years of regular service, they were promoted to the post of Superintendent vide orders dated 27.6.2017 and 13.7.2017 though they were shown junior to the private respondents in the said revised seniority list dated 6.6.2017, whereas the private respondents herein were denied promotion on the ground that they had not completed 8 years of regular service as Inspectors.

- 10.11** By relying upon the order passed in Pankaj Nayan case (supra) and judgment passed in N R Parmar case (supra) some of the other directly recruited Inspectors working under respondent no.5 Vadodara Zone, Gujarat (direct recruits who were denied promotion) herein invoked the jurisdiction of this Bench of the Tribunal by filing OA No. 404/2017 wherein the present applicants were impleaded as party respondents. The said OA No. 404/ 2017 came to be disposed of by this Tribunal on 22.02.2018 alongwith other identical OAs, such as OA 232/17 etc., directing the respondents to consider the cases of the applicants therein, in light of the judgment of Pankaj Nayan's case (supra). In compliance of the directions issued by this Tribunal in the said OA 404 of 2017, the official respondents passed an order dated 4.6.2018 mainly by observing that private respondents had not completed 8 years of regular service and hence, were not entitled to be considered for promotion to the post of Superintendent, subject to the final outcome of legal proceedings in this context.
- 10.12** The direct recruit Inspectors i.e. applicants of OA 404/2017 and 232/2017 and other connected matters which includes the private respondents herein had filed Contempt Petition being No.23/2018 and other CPs such as 20/2018, alleging that the directions of this Tribunal in OA No. 404/2017 and OA 232/2017 dated 22.02.2018 to consider the claim of applicants on the basis of orders passed in Pankaj Nayan case had not been followed in its true spirit. In the said CP, by accepting the request of the official respondent, this Tribunal vide order dated 26.06.2020 granted four months' additional time for compliance with the order passed in OAs. Thereafter, the respondent no.5 considering the directions contained in Pankaj Nayan case issued impugned order dated 5.8.2020 and called the APAR dossiers of Superintendents/Inspectors for considering them in review DPC for promotion to the grade of Superintendent which is under challenge herein.
- 10.13** Department of Revenue, Central Board of Indirect Taxes and Customs vide communication dated 18.06.2019 after consultation with DoP&T as also on receipt of opinion of Department of Legal Affairs in Ministry of Law and Justice, Government of India, decided to follow the directions issued by the Principal Bench, New Delhi in Pankaj Nayan case.

- 11 In view of above position, it cannot be gainsaid that the directly recruited Inspectors have been granted the seniority on the strength of the N. R. Parmar's case. We may profitably refer to the recent decision rendered by three Judge Bench of Hon'ble Apex Court in the case of K. Megha Chandra Singh vs NingamSiro reported in (2020) 5 SCC 689 : (2020) 2 SCC (L&S) 204 wherein the issue of legality and validity of ratio laid down in the case of N. R. Parmar has been considered and the Hon'ble Apex Court in para 39 held as under:-

*“The judgment in N R Parmar (2012) 13 SCC 340 relating to the Central Government Employees cannot in our opinion, automatically apply to the Manipur State Police Officer, governed by the MPS Rules, 1965. We also feel that N R Parmar had incorrectly distinguished the long standing seniority determination principles propounded in, inter-alia, Jagdish Ch. Patnik v/s State of Orissa (1998) 4 SCC 456, Suraj Prakash Gupta v/s State of Jammu & Kashmir (2000) 7 SCC 561 and Pawan Pratap Singh v/s Reevan Singh (2011) 3 SCC 267. These judgments and several others with like enunciation on the law for determination of seniority makes it abundantly clear that under service jurisprudence, seniority cannot be claimed from a date when the incumbent is yet to be born in the cadre. In our considered opinion, the law on the issue is correctly declared in Jagdish Ch. Patnik and consequently we disapprove the norms on assessment of inter-se seniority, suggested in N R Parmar. Accordingly, the decision in N R Parmar is overruled. However, it is made clear that this decision will not affect the inter-se seniority already based on N.R. Parmar and the same is protected. This decision will apply prospectively except where seniority is to be fixed under the relevant Rules from the date of vacancy/the date of advertisement.”*

- 12 Thus, the Hon'ble Supreme Court in K. Megha Chandra Singh (supra), categorically overruled the decision in N R Parmar's case. **However, Hon'ble Apex Court has carved out an exception as it has observed that “.....this decision will not affect the inter-se seniority already based on N R Parmar and the same is protected. This decision will apply prospectively ....”.**
- 13 In the present case the seniority list dated 6.6.2017 with respect to the officers working as Inspectors as on 1.1.2014 is the final seniority list which was prepared by the official respondents in light of the decision of N R Parmar's case. That it remained unchallenged, only confirms its acceptance by acquiescence. The same cannot be altered now in view of the decision of the Hon'ble Supreme Court in K. Megha Chandra's case.(supra).

- 14 It may be noted herein that the applicants themselves have referred to the decision of the Hon'ble Supreme Court in K. Megha Chandra's case by picking up the lines which are in their favour, but if the said portion is read in its entirety, the protection provided in the said judgment does not support the grounds of the applicants herein.
- 15 In view of the position of law laid down recently by the Hon'ble Supreme Court of India, in K. Megha Chandra's case on the crux of the issue involved herein, the scope of looking into or discussing other aspects raised in the present OA either by the applicants or by the official respondents as well as by the private respondents, is virtually extinguished as the *lis* is answered by the Hon'ble Supreme Court. The grounds raised by the respective parties in support of their respective cases viz. issue of *res judicata*, playing fraud before the court of law, etc. have been put forth in the present OA. Since the controversy raised in the present OA no longer survives in light of decision in K. Megha Chandra Singh's case, the said aspects are not referred to or discussed nor the judgments cited thereon by the respective parties have been adverted to, so as not to unnecessarily burden the order.
- 16 Besides the above legal position obtaining and running against the case put forth by the applicants, just to complete the chain of events, we deem it appropriate to mention that the Ministry of Finance (Department of Revenue) has taken suitable steps to amend the recruitment rules with respect to relaxation afforded under OM dated 25<sup>th</sup> March, 1996 available to direct recruit Inspectors of Central Excise and Customs. In this regard, Gazette notification dated 13<sup>th</sup> December, 2018 was published with regard to grant of relaxation to seniors in qualifying eligibility service for promotion (Ann. R/21). The said Gazette notification No. G.S.R. 1206(E) in its entirety reads as under:

*“In exercise of the powers conferred by the proviso to Article 309 of the Constitution, the President hereby makes the following rules further to amend the Superintendent of Central Excise Recruitment Rules, 1986, namely :*

- (1) These rules may be called Superintendent of Central Excise Recruitment (Amendment) Rules, 2018.*
  - (2) They shall come into force on the date of their publication in the official Gazette.*
- 1 In the Superintendent of Central Excise Recruitment Rules, 1986, in the - Schedule in Column 12 under the heading “Promotion”, the following note shall be inserted, namely:*

***“Note: Where juniors who have completed their qualifying or eligibility service are being considered for promotion, their seniors shall also be considered provided they are not short of the requisite qualifying or eligibility service by more than half of such qualifying or eligibility service or two years, whichever is less, and have successfully completed their probation period for promotion to the next higher grade alongwith their juniors who have already completed such qualifying or eligible service”***

**16.1** The above amendment also does not support the contentions of the promotee Inspectors.

**17** In the present OA, as discussed above, the applicants are mainly aggrieved by the communication dated 5.8.2020 of the official respondents, whereby the official respondents are contemplating review of promotion given vide order dated 26.06.2017, 13.07.2017 and 25.06.2018 and 25.06.2019 by forming DPC on or after 28.08.2020, which may alter the seniority position of the applicants resulting into their reversion. The applicants are further aggrieved by the impugned order dated 10.2.2020. Vide this order, 5 (five) Inspectors who were junior to the applicants have been given promotion along with consequential seniority in the grade of Superintendent, by ante-dating their promotion with effect from 27.06.2017 resulting in adversely altering the seniority of the applicants herein. The said grievance is not tenable in light of law laid down by Hon’ble Apex Court in K. Megha Chandra’s case (supra) particularly the exception carved out in the said judgment quoted above which directly applies to the facts of the present case.

Further, undisputedly the seniority list dated 06.06.2017 attained finality and was never challenged. The order passed in Pankaj Nayan case has been upheld by Hon’ble Delhi High Court while dismissing the Writ Petition thereon. Hence, the objection and grievance raised by the applicants against grant of benefit of relaxation in eligibility service is not well founded and hence, not acceptable. The judgments relied upon by the counsel for the applicant is also not of any help. On the contrary, the judgment passed by Hon’ble Apex Court in Megha Chandra (supra) holds the field.



Even otherwise as noted herein above, the seniority list dated 06.06.2017 has attained finality and can be acted upon in light of directions issued by Principal Bench in the case of Pankaj Nayan (supra). This action is protected as observed by Hon'ble Supreme Court in the case of K Megha Chandra (supra). The impugned decisions dated 05.08.2020 (Annexure A/2) and another impugned order dated 10.2.2020 (Annexure A/1) are in conformity with the directions of the Principal Bench of this Tribunal.

- 18** At this stage, it is apt to mention that during the pendency of this OA, the respondent no.5, on the basis of recommendation of the Review DPC, issued promotion order dated 07.12.2020 for the post of Superintendent which includes direct recruit inspectors as well as promotee inspectors. The said promotion order has been issued in process of implementing the order passed by this Tribunal dated 22.02.2018 in OA 404/2017, 232/2017 & other connected OAs (CP – 23/2018 and other connected CPs) read with judgment passed in Pankaj Nayan's case and the ("Senior – Junior") clause provided in OM dated 25.03.1996. The apprehension of applicants with regard to their reversion on implementation the judgment in Pankaj Nayan case and the directions issued by this Tribunal in various OAs and CPs, does not survive.
- 19** In view of what has been discussed hereinabove, particularly, in view of the recent dicta by the Hon'ble Supreme Court in K.Megha Chandra's case, the only inevitable conclusion is that the OA lacks merit requiring no interference with the orders impugned in the present O.A. Accordingly, the OA stands dismissed. No costs.

(A K Dubey)  
Member(A)

(Jayesh V Bhairavia)  
Member(J)

abp





