

**CENTRAL ADMINISTRATIVE TRIBUNAL  
AHMEDABAD BENCH**

**Original Application No.252/2020 with M A No.232/2020.**

**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. Dinesh Pabari,  
Aged: 47 years, Son of Bhagwanjibhai Pabari,  
Working as Superintendent, Central GST Audit, Rajkot,  
Residing at: Block No. BB – 15, Aalap Green City, Raiya Road,  
Rajkot – 360 007.
2. Smt. Krishna M. Shah,  
Aged: 47 years, D/o Kishorchandra J. Ruparelia,  
Working as Superintendent, Customs (Prev.), Jamnagar.  
Residing at – 301, Manoramya Apartment,  
B/h New parimal School, Opp. Atmiya College,  
Kalawad Road, Rajkot – 360 005.
3. Rafiuddin Ansari,  
Aged: 49 years, S/o. Nizamuddin Ansari,  
Working as Superintendent Audit, Rajkot.  
Residing at: 3, Alkapuri, Raiya Road,  
Rajkot – 360 007.
4. Sanjiv A. Jani,  
Aged: 46 years, S/o. Ashwinbhai M. Jani,  
Working as Superintendent Central GST, Audit Comm'te., Rajkot.  
Residing at: 64, JMC Nagar, Opp.Janta Dairy,  
Nr. Raiya Circle, Raiya Road, Rajkot – 360 007.
5. Pares P. Jivrajani,  
Aged: 49 years, Working as Superintendent,  
CGST Audit Commissionerate, Rajkot,  
S/o. PravinchandraJivrajani,  
Residing at: “SAI ASHISH” 79,  
PRASHIL PARK, Near NEEL’S CITY CLUB,  
Kalawad Road, Rajkot – 360 005.
6. Chirag Babulal Parvadia,  
Aged: 45 years, S/o. Babulal R. Parvadia,  
Working as Superintendent at CGST Rajkot-VII Range,

Residing at: Nalanda Park-1, Gayatri Krupa, Opp. Omega Tower, Kalawad Road, Rajkot – 360 001.

7. Praful Purohit,  
Aged: 50 years, S/o. Shri Ratilal Purohit,  
Working as Superintendent of Central GST, Hqrs. Rajkot.  
Residing at: Plot No.36, Street No. 04, Madhuwan Park,  
Near Patidar Chowk, Sadhuwaswani Road,  
Rajkot – 360 005.
8. Dilip N. Jani,  
Aged: 50 years, S/o. Navnitrai C. Jani,  
Working as Superintendent Central GST, HQ.,  
Rajkot Comm't.  
Residing at: 'OM SAI', Shiv Park-1, Opp. Mira Nagar,  
Nanavati Chowk, Raiya Circle, Rajkot – 360 007.
9. YogeshkumarRiska,  
Aged: 47 years, S/o. shri KanakraiRiska,  
Working as Superintendent, CGST Audit Rajkot.  
Residing at: "SHREYAS" , 3 Gyan Jivan Society,  
Opp. B No. A 11 Ami Park,  
Nr. Modi School, 150 Feet Ring Road,  
Rajkot – 360 007.
10. Smt. Amba A Aiyar,  
Aged: 51 years, D/o Shri M. V. Ranganathan,  
Place of Posting: Commr (Appeals) CGST, Rajkot.  
Residence: "BalaNivas", 3-Jagannath plot,
11. Smt. Preetha A. Khirani,  
Aged: 46 years, D/o M.S. John,  
Working as Superintendent Customs (Prev.) Jamnagar,  
Residing at: "Sanjari", 7' Chhotungar,  
Raiya Road, Rajkot – 360 007.
12. Manish P Kamdar,  
Aged: 49 years, S/o. Shri PranlalKamdar,  
Working as Superintendent CGST Range-2,  
Surendranagar.  
Residing at: Veer, 15 Vasundhara Residency,  
Airport Road, Rajkot – 360 007.
13. Divyesh Somaiya,  
Aged: 49 years, S/o. Shri Vrajlal Somaiya,  
Working as Superintendent, Central GST Audit, Rajkot,

Residing at: Flat No. 201, Crystal Apartment,  
Nirmala Convent School Road, Rajkot – 360 007.

14. Nilesh Somaiya,  
Aged: 48 years, S/o. Shri Nanalal Somaiya,  
Working as Superintendent, CGST Audit, Rajkot,  
Residing at: Srimad Park 2, Behind Life Building,  
Race Course Ring Road,  
Rajkot – 360 001.
15. Divyesh Joshi,  
Aged: 46 years, S/o. Shri Mahendra Joshi  
Working as Superintendent, CGST Audit, Rajkot.  
Residing at: ‘AMRUT’, 42, Sankalp Siddhi Park,  
Air Port Road, Rajkot – 360 007.
16. Jeetendra Shashikant Nagrecha,  
Aged: 49 years, S/o. Shri Shashikant J Nagrecha,  
Working as Superintendent,  
Office of the Commissioner (Appeals), CGST Rajkot.  
Residing at: “Jay”, Padmavati Residence,  
Block No.5, Behind Mira Nagar,  
Laxmi Resi. – 3, Raiya road,  
Rajkot – 360 007.
17. Kamani Dharmesh Navinchandra,  
Aged: 46 years, S/o. navinchandraMuljiKamani,  
Working as Superintendent, CGST HQ Bhavnagar,  
Residing at: Block No. 145, Ravi Residency,  
Behind Sterling Hospital, 150 Feet Ring Road,  
Rajkot – 360 002.
18. Hardipsinh Jadeja,  
Aged: 50 years, S/o. Arunendrasinh J. Jadeja,  
Working as Superintendent CGST Commte HQ Rajkot,  
Residing at: Block No. 13, Nagrik Bank Society,  
Near nirmala Convent School,  
Rajkot – 360 007.
19. Rizvan A. Lohia,  
Aged: 48 years, S/o. Shri AbdulKadarLohia,  
Working as Superintendent, CGST & Central Excise,  
Legal Cell, HQ., Rajkot,  
Residing at: Block No. 87/A Kidwainagar,  
Street No 6, Raiya Road, Rajkot – 360 005.

20. Yagnesh Ashara,  
Aged: 48 years, S/o. Shri Prafulbhai Ashara,  
Working as Superintendent, CGST Division, Surendranagar.  
Residing at “Hardik”, 4-Tirupati Nagar, Raiya Road,  
Rajkot – 360 007

21. Hemal Jasani,  
Aged: 46 years, S/o. Shri Narendra Jasani,  
Working as Superintendent, Audit, Rajkot,  
Residing at: 302 Panchtirth Apartment, 17 Panchnath Plot,  
Rajkot – 360 001.

22. Bhagirathsinh Rana,  
Aged: 49 years, S/o. Shri S. R. Rana,  
Working as Superintendent, Central GST Audit, Rajkot,  
Residing at: Block No.137, Shividham Society,  
B/h. Pushkardham Society, University Road,  
Rajkot – 360 005.

23. Nimish Kundalia,  
Aged: 47 years, S/o. Shri Rameshchandra Kundalia,  
Working as Superintendent of CGST Range-2, Junagadh,  
Residng at; “Vraj-Shyam”, 4, Rajhans Society,  
Raiya Road, Near Bank of Baroda,  
Rajkot – 360 007.

24. I S Rangwala,  
Aged: 45 years, S/o. Shri Saifuddin Rangwala,  
Working as Superintendent, Audit, Rajkot,  
Residing at: Babaji Heights, 2<sup>nd</sup> Floor,  
Kasha Vishwanath Plot, Rajkot – 360 001.

25. Piyush Trivedi,  
Aged: 45 years, S/o. Shri Shashikant Trivedi,  
Working as Superintendent, CGST Audit, Rajkot.  
Residing at: Shri Sati Krupa, Patrakar Colony Main Road,  
Near Airport Road Railway Crossing,  
Rajkot – 360 006.

26. Hitesh A. Badrakia,  
Aged: 51 years, S/o. Shri Amritlal P. Badrakia,  
Working as Superintendent in Central GST Division-1,  
Rajkot-1, Residing at: Aum, Harinagar Nagar Main Road,  
Near Sitaram Chhatralaya, University Road,  
Rajkot – 360 005.

27. Jayesh H. Barai,  
Aged: 46 years, S/o. Shri Hasmukhrai J. Barai,  
Working as Superintendent of Customs, Jamnagar.  
Residing at: kailash Park-8,  
University Road,  
Rajkot – 360 005.

28. Tushar M. Parmar,  
Aged: 45 years, S/o. Shri Mansukhlal Parmar,  
Working as Superintendent CGST Division, Junagadh.  
Residing at: 39, Parijat Residency,  
Sadhu Vaswani Road,  
Rajkot – 360 005.

29. ShaileshbhaiKanjibhaiChavda,  
Aged: 50 years, S/o. Shri kanjibhaiR.Chavda,  
Working as Superintendent, CGST, HQ, Rajkot,  
Residing at: 6-A, Vijaynagar Society,  
Nava Thorala, Bhavnagar Road,  
Rajkot – 360 003.

30. Paresh Pravinchandra Mehta,  
Aged: 53years, S/o. Shri Pravinchandra Mehta,  
Working as Superintendent of Custom House, Vadinar.  
Residing at: A-4, Royal Avenue,  
B/h. Vikram Marble, Raiya Main Road,  
Rajkot – 360 007.

31. Rahul J Dave,  
Aged: 46 years, S/o. Shri Jagdishchandra N Dave,  
Working as Superintendent, CGST Division-1, Rajkot.  
Residing at: D-303, Copper City,  
Opp. Wankaner Society, Jamnagar Road,  
Rajkot – 360 006.

32. Dharmisht D. Oza,  
Age: 51 years, S/o. Shri DinkarrayG.Oza,  
Working as Superintendent, EPC-1, Customs,  
Rajkot under Customs (Preventive), Jamnagar,  
Residing at: “Chaitanya” Vasudha Society, Rajkot – 360 006.

33. Pravin Popat,  
Aged: 52 years, S/o. Shri Chunilal Popat,  
Working as Superintendent CGST Audit, Rajkot,  
Residing at: “Momai-Asha”, Block No. B-8,  
Shantiniketan Par-2, 150 Feet Ring Road, Rajkot – 360 007.

34. HasamDawoodbhai Shaikh,  
 Aged: 44 years, S/o. Late Dawood Hasam Shaikh,  
 Working as Superintendent,  
 CGST Rajkot, Commissionerate.  
 Residing at: “BageZeenat”, Duvagir Colony,  
 Opp: Fala Masjid Somnath Talkies,  
 Talala Road, Veraval, District Gir Somnath – 362 266.

...Applicants

(By Advocate Shri 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 Colony, 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,  
Residng 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 Nougraiya,  
Aged: 36 years, working as Inspector of Central Excise,  
S/o. Shri Prahlad Prasad Nougraiya,  
Residing at: Flat No. C-1/303,  
Yogi Hills, Basera Road, Amla, 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, Nakshatra 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 Pandy,  
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,  
Chankypuri,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, Tenement 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 Shreedeo 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 Superintendent 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 Solitaire,  
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 The applicants by filing this OA under Section 19 of Administrative Tribunals Act 1985 have prayed for identical prayers as in OA 249/2020. MA 232/2020 for joint application is allowed. The issues involved are identical and advocates are also same for both the parties. It is stated by the counsel for the respondents that reply filed by them in OA 249/2020 be treated as their reply in connected OAs including the present OA. Considering the said undisputed facts, the present OA is also decided in terms of order passed in OA 249/2020 (Jitendra Harilal Pithadia & Anr v/s UoI & Ors). It is appropriate to reproduce the observation and decision in the order passed in OA 249/2020 which reads as under:-

***“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 recruit) 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 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."*
- 2** *In the present OA as noted herein above there is no dispute with regard to facts as well as the prayer sought by the applicant which are identical in nature to OA 249/2020 and the said OA 249/2020 decided by this Tribunal in view of above we do not find any reason to deviate from the said findings. Accordingly, this OA is dismissed in terms of observations and findings in OA 249/2020.*

(A K Dubey)  
Member(A)

(Jayesh V Bhairavia)  
Member(J)

abp