

**CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.**

OA No. 132/2020

MA No. 310/2021

Dated: 10.06.2021

CORAM:- DR. BHAGWAN SAHAI, MEMBER (A)

RAVINDER KAUR, MEMBER (J)

1. Mr. Brajesh Kumar,
Age 45 years, working as Inspector
Examiner in the office of The
Commissioner of Customs (Gen),
Air Cargo Complex, Sahar,
Andheri (East), Mumbai 400 099,
Residing at 10/208, Sector 7,
CGS Colony, Antop Hill,
Mumbai 400 037.

2. Mr. Ritesh Rai,
Age 37 years, working as Examiner
in the office of The
Commissioner of Customs N.S.III,
Nhava Sheva, Tal. Uran,
Dist. Raigad, Maharashtra
Residing at : Bldg. No. 190/09,
Type III Quarters, CGS Colony,
Antop Hill,
Mumbai 400 037.

3. Mr. Anand Kumar,
Age 42 years, working as Inspector
Examiner in the office of The
Commissioner of Customs (Audit).
Nhava Sheva, Tal. Uran,
Dist. Raigad, Maharashtra
Residing at : Bldg. No. 8/150,
Sector-7, CGS Colony, Antop Hill,
Mumbai 400 037.

4. Mr. Arun Kumar Dubey,
Age 39 years, working as
(Inspector) Examiner in the
office of The Commissioner of Customs, Appraising Main(I),
Nhava Sheva, Tal. Uran,
Dist. Raigad, Maharashtra
Residing at : Bldg. No. 10, Sector-7
CGS Colony, Antop Hill,
Mumbai 400 037.

5. Mr. Anil Kumar,
Age 39 years, working as
(Inspector) Examiner in the office
of The Commissioner of Customs
(NSV) Nhava Sheva, Tal. Uran,
Dist. Raigad, Maharashtra
Residing at : Bldg. No. 31/308,
Type II Qtrs, CGS Colony, Ekta
Vihar. CBD Belapur, Navi
Mumbai.

6. Mr. Rakesh Kumar,
Age 41 years, working as
(Inspector) Examiner in the office
of The Commissioner of Customs
(NS-II).EPCG Section, Nhava
Sheva, Tal. Uran, Dist. Raigad,
Maharashtra, Residing at : Bldg.
No. 8/163, CGS Colony, Antop
Hill, Sector 7, Mumbai 400 037.

7. Mr. Ashwani Kumar Shukla,
Age 44 years, working
as (Inspector) Examiner in the office
of The Commissioner of Customs
(NS-V) Nhava Sheva, Tal. Uran,
Dist. Raigad, Maharashtra
Residing at : Room No. 42, Block-
V, Type-[II, Ground Floor,
Ekta Vihar, CGS Colony, CBD
Belapur, Navi Mumbai

8. Mr. Hemant Kumar Pandey,
Age 36 years, working as Inspector
(Examiner) in the office of The
Commissioner of Customs (Export)
Sahar Cargo, Andheri (E),
Mumbai, Residing at : Bldg. No.
431/44, Gr. Floor, Ekta Vihar, CGS
Colony, CBD Belapur,
New Mumbai

9. Mr. Amit Kumar,
Age 37 years, working as Inspector
(Examiner) in the office of The
Commissioner of Customs (Audit).
Nhava Sheva, Tal. Uran,
Dist. Raigad, Maharashtra
Residing at : Bldg. No. 217/10,
CGS Colony, Antop Hill, Sector 7,
Mumbai 400 037.

10. Mr. Janmayjay KumarSingh,
Age 38 years, working as
Examiner in the office of The
Commissioner of Customs (NS-III).
Nhava Sheva, Tal. Uran,
Dist. Raigad, Maharashtra
Residing at : No. 604 A, 6" floor,
Horizon, Raheja Vihar, Powai,
Mumbai 400 076.

11. Mr. Rajeev Ranjan,
Age 39 years, working as Inspector
(Examiner) in the office of The
Commissioner of Customs (Audit)
NS-IV, Nhava Sheva, Tal. Uran,
Dist. Raigad, Maharashtra
Residing at : 403, 4" floor,
Konkan Pride CHS, Vahal, Ulwe,
Tal. Panvel, Dist. Raigad.

12. Mr. Sheo Shankar Ram,
Age 39 years, working as Inspector
(Examiner) in the office of The
Commissioner of Customs (Audit).

Nhava Sheva, Tal. Uran,
Dist. Raigad, Maharashtra
Residing at : Bldg. No. 10/210,
CGS Colony, Antop Hill,
Sector 7, Mumbai 400 037.

13. Mr. Ashish Srivastava,
Age 38 years, working as
Examiner in the office of The
Commissioner of Customs (Audit).
Nhava Sheva, Tal. Uran,
Dist. Raigad, Maharashtra
Residing at : Bldg. No. M5/803,
Valley Shilp CHS, Sector 36,
Khargar, Navi Mumbai)

14. Mr. Krishan Kumar Srivastava,
Age 36 years, working as
Examiner in the office of The
Commissioner of Customs (NS-IIE).
DPD Section, Nhava Sheva, Tal.
Uran, Dist. Raigad, Maharashtra
Residing at : Bldg. No. 9/189,
Sector 7, Antop Hill,
Mumbai 400 037.

...Applicants

Versus

1. Union of India through
The Secretary
Ministry of Finance
Department of Revenue
North Block
New Delhi-110 001

2. The Secretary
Ministry of Personnel, Public Grievances
& Pensions,
Department of Personnel & Training,
North Block, Central Secretariat, New
Delhi-110 001

3. The Member (P&V)
Central Board of Excise and
Customs, North Block
New Delhi- 110 001

4. The Principal Chief
Commissioner of Customs
Mumbai Customs
Zone-I, New Customs House
Ballard Estate, Mumbai- 400 001

5. The Principal Commissioner of
Customs (General)
Mumbai Customs Zone-1
New Customs House
Ballard Estate, Mumbai-400 001.

...Respondents

ORDER (ORAL)

PER: RAVINDER KAUR, MEMBER (J)

Present:

Shri Vicky Nagrani, learned counsel for the applicants.

Shri R. R. Shetty, learned counsel for the official respondents.

Shri R. Ramamurthy, learned counsel for the private respondents.

Advocate Shri V A Nagrani, counsel for the applicants had moved MA No. 310/2021 on 08.06.2021 alongwith precipe for early hearing, and he mentioned this matter before this Bench on 09.06.2021. Consequently, the Registry was directed to place the matter before the Bench on 10.06.2021 with notice to the respondents.

2. Vide the MA under consideration, the applicants therein have sought the following reliefs:

“a) This Hon’ble Tribunal may be graciously pleased to take on record the subsequent developments brought on record by way of the present Miscellaneous Petition.

b) Pending the hearing of this Original Application, this Hon'ble Tribunal may graciously be pleased to direct the Respondents not to proceed further on the basis of impugned seniority list dated 29.01.2019 and all the further process of promotion including DPC to the post of Appraiser be kept in abeyance.

c) Any other further orders as this Hon’ble Tribunal deems fit in the nature and circumstances of the case be passed.”

3. Learned counsel for the private respondents has submitted that he has not even been issued notice of the present OA, which had been filed in the year 2020 and he got the information regarding the present MA from the official respondents only yesterday late at night. He seeks time to file his vakalatnama and reply to the OA as well as MA.

4. Shri R. R. Shetty, Sr. Counsel appearing on behalf of the official respondents has submitted that before proceeding with the hearing on the MA, it is necessary to decide the issue of the maintainability of the present OA in the form of joint petition, and the present MA. He has brought to our notice that the present OA has been filed by 14 applicants, whereas it

has been verified by 17 persons. The signatories to the verification at Sr. No. 15 ie. Shri Gaurav Kumar, Sr. No. 16 ie. Debotesh Saha and Sr. No. 17 ie. Shri Hiralal are not party to the OA. Therefore, the present OA in the form of joint petition is not maintainable and is liable to be dismissed on this ground itself.

5. Shri Shetty has further pointed out that MA under consideration has also not been filed by all the applicants in the memo of parties in the OA. Not only this, the MA has also been signed by two more persons, namely Shri Sunil Kumar Singh and Shri Rajesh Kumar Singh who are not a party to the OA. We find these facts pointed out by Shri Shetty to be correct.

6. He has further submitted that the applicant no. 1 in the OA ie. Shri Brajesh Kumar has moved an application dated 09.06.2021 before this Tribunal whereby he has specifically stated that the DPC meeting for selection for promotion to the posts of Appraiser is supposed to be held soon, for which he is one of the candidates and is expected to be considered for promotion and for this reason, he has sought adjournment of the matter for by least two months. It is observed that this

application has not been brought to our notice by the Registry. In view of this submission of Mr. Shetty, apparently there is conflict of interest between applicant no. 1 and the other applicants who have filed the present MA. Since the remaining applicants are not before us, we do not know what is their stand, whether they are with Applicant no. 1 or have their different opinion. Mr. V. A. Nagrani is silent on this aspect. However, he has submitted that the OA was inadvertently verified by the signatories at Sr. no. 15 to 17 and that he would delete their signatures, and let the OA proceed as it is.

7. After hearing the submissions of both the parties, we have carefully gone through the material on record.

8. While dictating this order, it is further observed that MA No. 310/2021 is filed by 10 applicants, out of which only 7 are applicants in the OA ie. Applicant nos. 2, 3, 4, 6, 7, 8 and 12. The remaining three namely Gaurav Kumar, Sunil Kumar Singh and Rajesh Kumar Singh are not party to the OA, but have verified the MA. Therefore, all those signatories to the

verification of OA as well as MA, who are not party have falsely verified the OA/MA which amounts to giving false evidence and signing of false certificates punishable u/s 191 and 197 of the IPC. All these persons can be prosecuted on complaint by the Bench.

9. It is further observed from the record that the applicants who signed the verification at Sr. No. 15 to 17 have not signed vakalatnama in favour of Shri V A Nagrani, learned counsel for the applicants. On query from Shri V A Nagrani, he pleads that it has been done inadvertently and he would delete the signatures of these persons who are not party to the OA. Shri V. A. Nagrani is a responsible officer of the Court and is currently the President of CAT, Mumbai Bar Association and Such carelessness as reflected above is not at all expected of him. We expect fair practice from the lawyers, particularly, a lawyer of the status of Shri V A Nagrani.

10. The circumstances of this case speak volumes as to how with ulterior motive in connivance with some of the applicants to the OA, the MA No. 310/2021 has been filed by certain persons who are not even party to the OA. It is also observed that all the applicants to the OA

have not approached this Tribunal for interim relief vide this OA. Regarding applicant no. 1, it has been confirmed from the Registry that applicant no. 1 had forwarded his application dated 09.06.2021 to the official email address of CAT, Mumbai Bench at 10:43 PM on the same day. It is observed that Shri Nagrani is silent on the conduct of applicant no. 1 who had sent email to the Registry for adjournment of the case by two months as referred to above. Shri V A Nagrani is representing not only some of the applicants in the OA but all the applicants including applicant no. 1. The conflict of interest of the applicants is writ large in the facts and circumstances of the case and this fact ought to have been brought to the notice of the Bench by Shri Nagrani.

11. At this stage, Shri Nagrani submits that he may be permitted to withdraw the present OA. In the present circumstances, this OA, which otherwise deserves to be dismissed as being not maintainable, is allowed to be withdrawn and is hereby dismissed as withdrawn. However, it gets clearly established in this case that Shri Gaurav Kumar, Debotesh Saha and Shri Hiralal were not party to the OA but have falsely verified the claim about contents

of the OA and the applicant nos. 2, 3, 4, 6, 7, 8 and 12 in connivance with Gaurav Kumar, Sunil Kumar Singh and Rajesh Kumar Singh filed MA No. 310/2021 with ulterior motive. Thus all the persons included in the memo of parties to the OA, in signing the verification clause and filing of the MA 310/2021 have operated in connivance. Therefore, cost of Rs. 5000 is imposed on each of these 19 persons with directions to respondent no. 5 for getting deducted this amount of cost from their salary for the month of June, 2021 and to deposit it with the PM Relief fund. Respondent no. 5 is further directed to deposit the receipt of such deposit with the Registry within one month from today.

12. We have also observed that if the Registry had been vigilant at the time of Scrutiny of the OA, and the MA prior to placing before the Bench for hearing, such situation could have been avoided. All staff members with the Registry are directed to be careful in future while scrutinizing the case files.

(Ravinder Kaur)
Member (J)

(Dr. Bhagwan Sahai)
Member (A)

gm.