IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH

Jaipur, this the 12th August, 2008

CORAM:

HON'BLE MR. M.L. CHAUHAN, JUDICIAL MEMBER
HON'BLE MR. B.L. KHATRI, ADMINISTRATIVE MEMBER

1. **CONTEMPT PETITION NO. 21/2008**
(ORIGINATION APPLICATION NO. 490/2002)

Ram Lal Bhati son of Shri Narain Lal Bhati aged about 37 years, resident of Plot No. 41-42, Lohra Colony, Near Vaishali Nagar, Jaipur. Presently working as Group 'D' Casual Labour (Gardner) in the office of Chief Commissioner of Customs and Central Excise, Jaipur-I.

2. **CONTEMPT PETITION NO. 22/2008**
(ORIGINAL APPLICATION NO. 490/2002)

Manoj Kumar Suwal son of Shri Kalu Ram Suwal by caste Suwal, aged about 31 years, resident of Plot No. 2801, Purohit Ji Ka Rasta, Chandpole Bazar, Jaipur. Presently disengaged Casual Labour from the office the Chief Commissioner of Customs and Excise, Revenue Building, Jaipur.

3. **CONTEMPT PETITITION NO. 23/2008**
(ORIGINAL APPLICATION NO. 490/2002)

Ved Prakash Sharma son of Shri Ram Avtar Sharma by caste Sharma, aged about 32 years, resident of 235, Purohit Para, Brahampuri, Bus Stand, Jaipur. Presently working as Group 'D' Casual Labour (Gardner) in the office of the Chief Commissioner Customs and Central Excise Jaipur -I.

4. **CONTEMPT PETITION NO. 24/2008**
(ORIGINAL APPLICATION NO. 490/2002)

Umesh Kumar son of Shri Suresh Lal by caste Sharma aged about 31 years, resident of Plot No. 2240, Gangauri Bazar, Jaipur. Presently working as Group 'D'

Casual Labour (Gardner) in the office of the Chief Commissioner Customs and Central Excise, Jaipur-I.

5. **CONTEMPT PETITION NO. 25/2008**
(ORIGINAL APPLICATION NO. 490/2002)

Ram Avtar Narwal son of Shri Dulichand Narwal by caste Narwal, aged about 33 years, resident of Plot No. B-12. Tejaji Ki Bagichi, Purani Basti, Jaipur. Presently working as Group 'D' Casual Labour (Gardner) in the office of the Chief Commissioner Customs and Central Excise, Jaipur-I.

6. **CONTEMPT PETITION NO. 26/2008**
(ORIGINAL APPLICATION NO. 490/2002)

Madan Lal Verma son of Shri Bhonri Lal Verma by caste Verma aged about 33 years, resident of 26/266, Subhash Colony, Gullar Ka Bandha, Sanganer, Jaipur. Presently working as Group 'D' Casual Labour (Gardner) in the office of the Chief Commissioner Customs and Central Excise, Jaipur-I.

7. **CONTEMPT PETITION NO. 27/2008**
(ORIGINAL APPLICATION NO. 490/2002)

Ghanshyam Gurjar son of Shri Kalu Ram Gurjar by caste Gurjar aged about 28 years, resident of Plot No. 1/A-22, Subhash Colony, Shastri Nagar, Jaipur. Presently working as Group 'D' Casual Labour (Gardner) in the office of the Chief Commissioner Customs and Central Excise, Jaipur-I.

8. **CONTEMPT PETITION NO. 28/2008**
(ORIGINAL APPLICATION NO. 490/2002)

Babu Lal Sharma son of Shri Chiranji lal Sharma aged about 31 years, resident of Village and Post Garh, Tehsil Bassi, District Jaipur. Presently working as Group 'D' Casual Labour (Gardner) in the office of the Chief Commissioner Customs and Central Excise, Jaipur-I.

.....APPLICANTS

(By Advocate: Mr. P.N. Jatti)

VERSUS

1. Shri Rajesh Dingra Chief Commissioner, Custom and Central Excise, Jaipur-I.

.....RESPONDENTS

(By Advocate: ----------)

ORDER (ORAL)

By this common order, we propose of dispose of the aforesaid Contempt Petitions as common question of facts is involved.

2. The applicants have filed OA No. 490/2002 in this Tribunal which was decided vide order dated 21.12.2004. In operative Para, this Tribunal has made the following observations:-

"This OA is thus disposed of with a direction to the respondents that in case the applicants are willing and they present themselves for working on the posts they were engaged initially and had worked on such posts also for some time, they shall be allowed to work on the same terms and conditions under which they were governed at the time of their dis-engagement, if the work is still available with the respondents. They will not refuse the work to the applicants on the ground that since fresh appointments in place of the applicants have been made, no work is available with them. If need arises, they are free to dispense with the services of the fresh appointees as the replacement of the applicant with fresh appointees is illegal. OA is thus allowed to this limited extent."

3. The matter was carried to the Hon'ble High Court by filing DB Civil Writ Petition No. 6713/2006. The Hon'ble High Court dismissed the Writ Petition vide order dated 20.02.2008 on the ground that from perusal of the order of the Tribunal, it appears that directions are not mandatory in nature and have been issued in the nature of certain arrangement under which the petitioner was granted liberty to follow them. The Hon'ble High Court has also recorded that since the order passed by the Tribunal is not mandatory, we see no reason why the Writ Petition has been filed. Since the directions issued by this Tribunal have already been carried out, the Writ Petition is dismissed under these circumstances.

4. Learned counsel for the applicant submits that in fact the direction issued by this Tribunal has not been carried out. It is further stated that since there was stay operating against the impugned judgement of this Tribunal, as such the applicants could not present themselves before the authorities. The applicants have also annexed the copy of the representation dated 20.04.2008 (Annexure CP/3) to the respondents thereby showing their willingness to work on the post they were initially engaged in terms of the aforesaid order passed by this Tribunal but the respondents have neither passed any order on the representation so made by the applicant nor the applicants have been permitted to work on the post against which they were previously working.

5. We have given due consideration to the submission made by the learned counsel for the applicants. We are of the view that it is not a case where we should invoke contempt

proceedings. As observed by the Hon'ble High Court that the order passed by this Tribunal is not mandatory in nature, as such the remedy, if any, available to the applicant is either to file an Execution Petition for the enforcement of the order of this Tribunal dated 21.12.2004 or to make a comprehensive representation to the respondents thereby requesting to engage them on the post on which they were working at the time of their dis-engagement and also to point out the persons who have been given fresh appointment in place of the applicants and also regarding availability of work. In that eventuality, we see no reason why the respondents shall not pass proper order on the representation of the applicants expeditiously.

6. With these observations, the Contempt Petitions are disposed of. It is, however, made clear that we have not given any finding on the merit of the case. The Contempt Petitions are being disposed of solely on the ground that there is alternative remedy available under the statute.

(B.L. KHATRI)
MEMBER (A)

(M.L. CHAUHAN)
MEMBER (J)

AHQ

Certified That This is a True and Accurate Copy of The Document/Order As In The Case File No. ..... And That All The Matters Appearing Therein Have Been Legibly and Faithfully Copied with no Modification

24/10/06

Copying Clerk Section Officer (Judicial)
C.A.T. Jaipur Bench