

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

**CP-108/2017 in
OA-2450/2016**

Reserved on : 10.08.2017.

Pronounced on : 17.08.20.17.

Hon'ble Mr. Shekhar Agarwal, Member (A)
Hon'ble Mr. Raj Vir Sharma, Member (J)

1. Ranvijay Singh Khinchi
Inspr. Customs & Central Excise
Aged about 38 years
s/o Mr. Ranjit Singh Khinchi
r/o A-2/52A, Keshavpuram
Delhi-35.
2. Dinesh Kumar
Aged about 32 years
s/o Mr. Ramesh Chander
r/o 687/31, Ashok Vihar, Mehlaana Road,
Sonapat.
3. Jai Prakash
Aged about 34 years
s/o Mr. Jaibir Singh
r/o 2/242, Arya Nagar, Sonapat.
4. Anju Naithani
Aged about 39 years
d/o Mr. Deepak Naithani
r/o 3620, Sector-23, HUDA, Gurgaon.
5. Niharika
Aged about 30 years
d/o Mr. Sharwan Kumar
r/o H.No.93 & 94, Pocket I
Block No.4, Sec 16
Rohini, Delhi.
6. Kavita Wadhwa
Aged about 30 years

d/o Mr. M L Upper
r/o H.No.35, Hakikat Nagar, Kingsway Camp
Delhi-9.

7. Anita
Aged about 32 years
d/o Mr. Jai Prakash
r/o L-2/24 A, DDA Flats, Kalkaji, New Delhi.
8. Chandra Prakash
Aged about 33 years
s/o Mr. Bhagwan Swaroop
R/o C-2/155, Yamuna Vihar,
Delhi-53.
9. Santosh Kumar
Aged about 43 years
s/o Mr. Kamleshwar Prasad Shah
r/o C-81, Rama Park, Uttam Nagar,
Delhi.
10. Manish Dabas
Aged about 35 years
s/o Mr. Chand Ram
r/o -248, Gali No.10, Punjabi Colony
Narela, Delhi-40.
11. Sandeep Rana
Aged about 33 years
s/o Mr. Ajit Singh
r/o 430A, Shahbad Daulatpur,
Delhi-42.
12. Sandeep Rana
Aged about 33 years
s/o Mr. Ajit Singh
r/o H.No.1948-E, Mamurpur, Narela
Delhi-40.
13. Rakesh Kumar
Aged about 34 years
s/o Mr. Rambhaj Malik
r/o H.No.R 66/1, Ground Floor, R-Block
Model Town-III, Delhi-9.

14. Gaurav Kumar
Aged about 35 years
s/o Mr. Ram Kumar Singh
r/o Qtr. No.67, Type III, NH-4, NIT Faridabad.
15. Surender Singh
Aged about 35 years
s/o Mr. Satpal Singh
r/o VPO Ghogrian, Distt. Jind,
Haryana.
16. Lovesh Malik
Aged about 33 years
s/o Mr. Dhiraj Singh Malik
r/o 16-B Old Housing Board Colony
Sonepat, Haryana.
17. Ashok Kumar
Aged about 36 years
s/o Mr. Om Prakash
r/o VPO Balak, Distt. Hisar,
Haryana.
18. Vikram Pal
Aged about 33 years
s/o Mr. Jagdish Prasad
r/o VPO Bahu (Jholri), Distt. Jhajjar,
Haryana.
19. Deepak Singh
Aged about 31 years
s/o Mr. Surender Singh
r/o 34, Radio Colony, Rohtak,
Haryana.
20. Naresh Shejwal
Aged about 31 years
s/o Mr. Padam Singh Shejwal
r/o H.No.33/2, VPO Alawalpur
Dist-Palwal 121102.
21. Kumar Anupam Alok
Aged about 36 years
s/o Mr. Shiv Kumar Prasad
r/o G-204, Cloud-9 Towerm Aninsha Khand
Indirapuram, Ghaziabad.

22. Rakesh Manocha
Aged about 36 years
s/o Mr. Rajinder Lal
r/o Opp. New Anaj Mandi Barara
Distt. Ambala, Haryana.
23. Dinesh Kumar
Aged about 37 years
s/o Mr. Dharam Vir
r/o RZ-D-44, Gali No.6,
Syndicate Enclave
Raghu Nagar.
24. Kaushal Kishor
Aged about 34 years
s/o Mr. Narendra Prasad Yadav
r/o At-Bela Singar Moti, Post-Dighiya,
Via Nirmali, District –Supaul,
Bihar – 847452.
25. Ramji Swarnkar
Aged about 30 years
s/o G-1/244, Second Floor, Indira Enclave
Sector -21 D, Faridabad.
26. Manoj Kumar
Aged about 36 years
s/o Mr. Deshpal Singh
r/o E-5/8, Rajiv Gali, Dayal Pur,
Delhi.

.... Petitioners

(through Mr. M K Bhardwaj, Advocate)

Versus

1. Sh. Hasmukh Adhia,
Secretary,
Ministry of Finance
North Block, New Delhi.
2. Sh. Najib Shah,
Chairman
CBEC, North Block,
New Delhi.

3. Ms. Archana Pandey Tiwari,
Chief Commissioner of Central Excise,
Delhi Zone, CR Building,
IP Estate, New Delhi.

..... Respondents

(through Sh. Piyush Gaur, Advocate)

ORDER

Mr. Shekhar Agarwal, Member (A)

This Contempt Petition has been filed for alleged non-compliance of our order dated 25.07.2016, which reads as follows:-

"1. It is stated by learned counsel for applicants that this matter is squarely covered by the Orders passed by this Tribunal in **Pankaj Nayan & others v. Union of India & others** (O.A. No.3405/2014) and **Kaushalendra Kumar & others v. Union of India & others** (O.A. No.1923/2016).

2. In view of the above, we dispose of this Original Application at this stage without going into the merits of the matter with direction to the respondents that in case it is found that the applicants herein are similarly placed as that of the applicants in the aforementioned cases, they may be extended the same benefits. Time frame fixed for compliance of the Order is 60 (sixty) days from the date of receipt of a copy of this Order."

2. In compliance thereof, the respondents have passed an order dated 25.04.2017, which has been annexed to their affidavit filed on 11.05.2017. In this order, the respondents have come to the conclusion that the applicants herein were not similarly placed as applicants in the cases of **Pankaj Nayan & Ors.** (supra) and **Kaushalendra Kumar & Ors.** (supra). The respondents have claimed

that with the passing of the aforesaid order, the order of the Tribunal stands complied with.

3. This was disputed by learned counsel for petitioners Sh. M.K. Bhardwaj. He argued that the respondents are taking contradictory stand. In the order dated 25.04.2017, they have come to the conclusion that the petitioners herein are not similarly placed as the applicants in the cases of **Pankaj Nayan & Ors. Vs. UOI** (OA-3405/2014) and **Kaushalendra Kumar & Ors. Vs. UOI & Ors.** (OA-1923/2016) and have, therefore, refused to extend the benefit of orders in those OAs to these applicants whereas in Writ Petition No. 11281/2016 filed before Hon'ble High Court of Delhi challenging the order of the Tribunal, the grounds of challenge are based on merits of the case. Nowhere in that Writ Petition, the respondents have claimed that the petitioners were not similarly placed as applicants in the case of **Pankaj Nayan & Ors.** (supra) and **Kaushalendra Kumar & Ors.** (supra). Sh. Bhardwaj further argued that Hon'ble High Court also while issuing notice in the Writ Petition No. 11281/2016 had ordered that the order of the Tribunal should be complied with and that promotions, if any, will be subject to the outcome of the Writ Petition. He argued that closure of this CP would amount to allowing the Writ Petition pending before Hon'ble High Court.

4. In response, learned counsel for the respondents Sh. Piyush Gaur drew our attention to order passed by us on 13.01.2017 in **CP-488/2016 in OA-1923/2016** titled Kaushalendra Kumar & Ors. Vs. Hasmukh Adhia & Ors., Secretary, Ministry of Finance & Ors. wherein under similar circumstances it was held that whether the order passed by the respondents was right or wrong was a matter of adjudication and not of contempt and thereafter the CP was closed.

5. We have considered the submissions of both sides and have perused the material placed on record. We are of the opinion that the facts of this case are similar to the facts of the case **Kaushalendra Kumar & Ors.** (supra) in which when similar order was passed by the respondents, we had closed the CP by our order dated 13.01.2017.

6. Sh. Bhardwaj has relied on order dated 06.04.2016 of a Co-ordinate Bench of this Tribunal in OA-1290/2016 in which finding that the representations of the applicants had not been considered in accordance with the directions given by this Tribunal, it was held that the speaking order passed by the respondents was no order in the eyes of law. Further, in Contempt Petition No. 370/2016 filed in the same OA, vide order dated 03.10.2016 this Tribunal had gone on

to hold that a prima facie case of contempt was made out against the respondents.

6.1 We have considered the aforesaid judgments. In our opinion, these judgments have no applicability in the instant case as in this case the OA was disposed of at the admission stage itself without going into the merits of the case and respondents were directed to examine whether the applicants were similarly placed as applicants in the case of **Pankaj Nayan & Ors.** (supra) and **Kaushalendra Kumar & Ors.** (supra). The order passed by the respondents on 25.04.2017 does not violate the mandate given in our order dated 25.07.2016.

7. Accordingly, we close this Contempt Petition in this case as well and discharge the notices issued to the alleged contemnors. The petitioners shall, however, be at liberty to challenge the aforesaid order of the respondents through appropriate proceedings, if so advised.

(Raj Vir Sharma)
Member (J)

(Shekhar Agarwal)
Member (A)

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