

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

**CP-488/2016 in  
OA-1923/2016**

**New Delhi, this the 13<sup>th</sup> day of January, 2017**

**Hon'ble Sh. Shekhar Agarwal, Member (A)**  
**Hon'ble Dr. Brahm Avtar Agrawal, Member (J)**

1. Kaushalendra Kumar,  
Insp. Customs & Central Excise,  
Aged About 38 years,  
S/o Sh. R.C. Sharma,  
R/o A-126, Moti Bagh-I,  
New Delhi-110021
2. Rakesh Kumar,  
Aged About 32 years,  
S/o Sh. Sher Singh,  
R/o Vill-Silpata, Kotkasim, Alwar, Rajasthan,
3. Ajay Kumar Sahu,  
Aged About 38 years,  
S/o Sh. Ram Prasad Sahu,  
R/o H. No. 63, Block-B, Shyam Vihar,  
Phase-I, Najafgarh, New Delhi-110043
4. Manish,  
Aged About 35 years,  
S/o Sh. Hemchand,  
R/o 51, MBK, CGHS, Plot No. 6, Sec-13,  
Dwarka, New Delhi
5. Pankaj Kumar,  
Aged About 36 years,  
S/o Sh. Laxmi Narayan Singh,  
R/o 87, Sh. Keshav Kunj Apartment,  
Sec-17, Dwarka, New Delhi-110078
6. Sanjay Sharma,  
Aged About 31 years,  
S/o Sh. Bijendra Sharma,  
R/o Vill. Mehrauli, P.O Kavi Nagar,  
Distt. Ghaziabad, U.P.-201002
7. Sanjay Kumar Roy,  
Aged About 38 years,  
S/o Sh. Kishan Roy,  
R/o H. No. 143/52, NH-5, Faridabad, Haryana

8. Sachin Sahu,  
Aged About 34 years,  
S/o Sh. Chhedi Lal,  
R/o B-1, Plot No. 250, Gyan Khand-I,  
Indirapuram, Ghaziabad, U.P.,
9. Tarun Kumar Sharma,  
Aged About 33 years,  
S/o Sh. Krishna Lal Sharma,  
R/o K-99/3, Main Durga Gali, Maujpur,  
Delhi-110053
10. Kamaljeet Singh Khanuja,  
Aged About 33 years,  
S/o Sh. Raghuvir Singh Khanuja,  
R/o 364, 1<sup>st</sup> Floor, Indira Vihar, Delhi-110009
11. Vijay Kumar Jha,  
Aged About 38 years,  
S/o Sh. Raghu Nandan Jha,  
R/o 4/141, Sec-4, Vaishali, Ghaziabad-201010,  
U.P.,
12. Abhishek Kumar,  
Aged About 32 years,  
S/o Sh. Maya Nand Jha,  
R/o GF-2, Plot No. 66, Sec-2A,  
Vaishali, Ghaziabad, U.P.,
13. Satish Kumar Yadav,  
Aged About 33 years,  
S/o Sh. Jagdish Prasad Yadav,  
R/o 2<sup>nd</sup> Floor, Back, B-744, Greenfield Colony,  
Faridabad, Haryana
14. Gautam Kumar,  
Aged About 35 years,  
S/o Sh. Maheshwar Thakur,  
R/o S-202, 6/1, Sec-6,  
Vaishali, Ghaziabad, U.P.,
15. Amarendra Kumar,  
Aged About 35 years,  
S/o Sh. Ajab Lal Singh,  
R/o Q. No. 1292/III, NH-IV, NIT Faridabad,  
Haryana
16. Mohan Prakash Meena,  
Aged About 35 years,  
S/o Sh. Jay Ram Meena,  
R/o H. No. 1288, Type-III, NH-IV, Faridabad,  
Haryana

17. Manoj Kumar,  
Aged About 37 years,  
S/o Sh. Bholu Yadav,  
R/o 19, Om Apartment, Sec-14, Dwarka,  
New Delhi
18. Narender Singh,  
Aged About 35 years,  
S/o Sh. Ram Saran Singh,  
R/o C-62, Panchsheel Vihar,  
Malviya Nagar, New Delhi-110017
19. Prashant Prakhar,  
Aged About 36 years,  
S/o Sh. G.P. Mandal,  
R/o F-06, Kaka Nagar, New Delhi-110003
20. Vishnu Kumar Meena,  
Aged About 34 years,  
S/o Sh. Jawahar Lal Meena,  
R/o JB-12A, Hari Nagar, New Delhi
21. Digvijay Tiwari,  
Aged About 31 years,  
S/o Sh. R.C. Tiwari,  
R/o 5P/21D, IInd Flats, NIT Faridabad,  
Haryana,
22. Himanshu Vaish,  
Aged About 32 years,  
S/o Sh. Vijay Prakash Vaish,  
R/o Vaish Villar, Rajeshwari Colony,  
Vidya Vihar, Kargi, Dehradun
23. Avadhesh Kumar Bhati,  
Aged About 33 years,  
S/o Sh. Brahmanand Bhati,  
R/o 116, Krishna Lok Colony, Meerut, U.P.,
24. Malik Vishesh,  
Aged About 34 years,  
S/o Sh. Udai Raj Malik,  
R/o D-210, Plot No. 15, Vikram Enclave,
25. Manoj Kumar,  
Aged About 37 years,  
S/o Sh. Krishan Kumar,  
R/o B-4059, Greenfield Colony,  
Faridabad, Haryana
26. Anis Alam,  
Aged About 37 years,  
S/o Sh. Md. Kamaluddin,

R/o L-2, 78B, DDA Flats, Kalkaji,  
New Delhi

27. Sanjeev Kumar Singh,  
Aged About 36 years,  
S/o Sh. Shashi Bhoshan Singh,  
R/o Plot No. 735, FF-I, Sec-5, Vaishali,  
Ghaziabad, U.P.,
28. Krishna Kant Basist,  
Aged About 32 years,  
S/o Sh. Ramesh Chandra Mishra,  
R/o Sec-4, Vaishali, Ghaziabad, U.P.
29. Gulwant Singh,  
Aged About 37 years,  
S/o Sh. Prakash Chand,  
R/o H. No. 17, Gali No. 1,  
A-1 Block Extn., Sant Nagar, Delhi
30. Pravendra Singh Sishodia,  
Aged About 34 years,  
S/o Sh. Jagveer Singh,  
R/o H. No. 344/B-14, Him Giri Apartment,  
Sec-34, Noida, U.P.,-201307
31. Krishan Murari Bhardwaj,  
Aged About 38 years,  
S/o Sh. Jagdish Prasad,  
R/o 1874, New Complex, NIT, NH-IV,  
Faridabad-121001, Haryana
32. Mrityunjay Kumar,  
Aged About 31 years,  
S/o Sh. Subhash Chandra Yadav,  
R/o 6/276, 1<sup>st</sup> Floor, Nirankari Colony,  
Delhi-110009
33. Shashi Shekhar Prasad,  
Aged About 35 years,  
S/o Sh. Ugrasen Prasad,  
R/o L-2/19-B, DDA Flats, Kalkaji,  
New Delhi
34. Pardeep Kumar,  
Aged About 35 years,  
S/o Sh. Gokul Chand,  
R/o 1, Type-III, NH-IV, NIT Faridabad,  
Haryana
35. Vikash Kumar,  
Aged About 36 years,  
S/o Sh. Kanti Prasad Tyagi,

R/o 2503, Astha Kunj Appptt., Plot No. 3,  
Sec-3, Dwarka, New Delhi

36. Arvind Kumar,  
Aged About 36 years,  
S/o Sh. Dileshwar Sahu,  
R/o H. No. 90-B, Street No. 15-B, B-Block,  
Shyam Vihar, Ph-I, Najafgarh, New Delhi
37. Amit Soni,  
Aged About 37 years,  
S/o Sh. Raghuvveer Sharan Soni,  
R/o A-202, JKG Heights, C-9, Sec-9,  
Vasundhara, Ghaziabad, U.P.,
38. Shravan Kumar,  
Aged About 31 years,  
S/o Sh. Satya Narayan Mandal,  
R/o F1F, Vatika Apartment, G-8,  
Rajouri Garden, Mayapuri, New Delhi-110064
39. Poonam Sharma,  
Aged About 48 years,  
W/o Sh. Neeraj Kumar Sharma,  
R/o Flat No. 39, DDA MIG Flats, Sec-23,  
Dwarka, New Delhi
40. Anand Tripathi,  
Aged About 34 years,  
S/o Sh. K.K. Tripathi,  
R/o F-4, Kaka Nagar, New Delhi-110003
41. Naresh Chandra Mahto,  
Aged About 38 years,  
S/o Sh. B.P. Mahto,  
R/o G1/114, 3<sup>rd</sup> Floor, Uttam Nagar,  
New Delhi-110059
42. Bhupendra Kumar,  
Aged About 38 years,  
S/o Sh. Ramjinis Rai,  
R/o H. No. 96-13, L-2, DDA Flats,  
Kalkaji, New Delhi-110019
43. Bhoopendra Singh,  
Aged About 41 years,  
S/o Sh. Shivdas Sachan,  
R/o 627, DDA Flats, Pkt-I, Sec-22, Dwarka,  
New Delhi
44. Vikas Kumar,  
Aged About 34 years,

S/o Sh. Mahender Singh,  
R/o H. No. 221/6, D-Block, Nangloi Extn.-II,  
Delhi-110041

45. Rupesh Kumar Sharma,  
Aged About 33 years,  
S/o Sh. Baldeo Prasad Sharma,  
R/o S-J, Plot No. 643,  
Shalimar Garden, Extn.-I, Ghaziabad-201005

46. Nalin Kumar Srivastava,  
Aged About 35 years,  
S/o Sh. Arjun Srivastava,  
R/o Flat No. 174, Dwarkadheesh Apartment,  
Pkt-2, Sec-12, Dwarka, New Delhi ... Petitioners  
  
(through Sh. A.K. Behera)

versus

1. Sh. Hasmukh Adhia,  
The Secretary,  
Ministry of Finance,  
North Block, New Delhi

2. Sh Najib Shah,  
The Chairman,  
CBEC, North Block,  
New Delhi

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

(through Sh. Arun Bhardwaj, Sh. Piyush Gaur and Sh. D.S. Mahendru)

### **ORDER (ORAL)**

#### **Sh. Shekhar Agarwal, Member (A)**

This CP has been filed seeking compliance of our order dated 31.05.2016,  
the operative part of which reads as follows:

“3. In view of the limited prayer made by the applicants, we dispose of this OA at the admission stage itself without issuing notice to the respondents and without going into the merits of the case with a direction to the respondents to examine the case of

the applicants herein. In case it is found that they are similarly placed as applicants in OA No. 3405/2014 then the same benefits be extended to the applicants of this OA as were granted to applicants of OA 3405/2014. This consideration will be done within a period of 60 days from the date of receipt of a certified copy of this order. Decision taken shall be communicated to the applicants by means of a reasoned and speaking order. No costs."

The aforesaid order of this Tribunal in OA No. 3405/2012 was challenged by the respondents before Hon'ble High Court of Delhi vide WP No. 11277/2016. Hon'ble High Court has passed the following order on 29.11.2016

"1.Issue notice to the respondents, returnable for 02.03.2017.

2.Having heard the counsel for the petitioner we are not inclined to grant interim stay as prayed.

3.Learned counsel for the petitioner has submitted that DoP&T had on three occasions refused the request of the petitioner either to amend the recruitment rules or grant relaxation. In other words, the petitioners aver that the case as set up by the respondents, merited consideration.

4.Learned counsel for the petitioner has referred to the minutes as recorded by the DoP&T.The aforesaid minutes do not indicate reasons or ground why the stipulation in the OM dated 25.03.1996 was not incorporated in the recruitment rules.

5.The OM dated 25.03.1996 was issued to ensure uniformity in different Cadres and Ministries.

6.The Tribunal in the impugned order has also referred full Bench decision of the Tribunal in Ms. Garima Singh & Others Vs. Union of India & Ors.

7.Mr. Bhardwaj states that different set of rules apply to different cadre.

8.Learned counsel for the respondent on the other hand submits that the decision in the Garima Singh (Supra) has been rightly relied.

9.Be that as it may, in the given circumstances the order of the Tribunal should be complied with. Promotion, if any, will be subject to the outcome of the present application/writ petition.

10. List on 02.03.2017."

In compliance of this Tribunal's order, the respondents have passed order dated 14.12.2016 in para 3 of which the following has been recorded:

"The applicants in the OA No. 1923/2016 are not similarly placed as applicants in OA No. 3405/2014 in as much as all the 19 applicants in OA No. 3405/2016 were direct Inspectors for the vacancies of 2004-05, who were promoted to the post of Superintendent in the year 2015 itself and have since been working as Superintendent. The applicants in OA No. 3405/2014 (Pankaj Nayan and others) were promoted to the post of Superintendent vide E.O. No. 59/2015 dated 01.04.2015 after completion of 8 years of regular service in the grade of Inspector strictly in compliance of Superintendent of Central Excise Recruitment Rules, 1986 and at the time of their promotion, no relaxation was given to the applicants. Whereas, in OA No. 1923/2016, out of 203 applicants 183 applicants have joined as direct Inspectors for the vacancies for 2006-07, 15 have joined as direct Inspectors for vacancies of the 2005-06, 1 is a promotee Inspector for 2010-11, 1 is a promotee Inspector for 2009-10 and 3 are promotee Inspectors for 2008-09. Further, no applicant in OA No. 1923/2016 has completed 8 years of regular service in the grade of Inspector as required in Superintendent of Central Excise Recruitment Rules, 1986."

2. Learned counsel for the respondents submitted that the respondents have considered the case of the applicants herein and have arrived at a conclusion that these applicants were not similarly placed as applicants of OA No. 3405/2014. This was disputed by learned counsel for the petitioners Sh. A.K. Behera who submits that the consideration of similarity by the respondents has not been done in accordance and in letter and spirit of the order passed by this Tribunal.

3. Be that as it may, in CP we cannot decide whether order passed by the respondents is right or wrong as this is a matter of adjudication and not of contempt.

4. Learned counsel for the petitioners, Sh. A.K. Behera, drew our attention to last few lines of Para 4 which reads as follows:

".... In view of foregoing discussion in paras 3 and 4, the case of applicants in OA No. 1923/2016 will require to be considered, only after benefit, if any, has been extended to the applicants in OA No. 3405/2014, as per rules."



He argued that this would indicate as if the matter is yet to be fully considered by the respondents. Sh. Bhardwaj, learned counsel for the respondents however, explained that the respondents have come to conclusion that the applicants of OA No. 1923/2016 were not similarly placed as applicants of OA No. 3405/2014. Moreover, they are also stating that since relief has not been granted so far to applicants of OA No. 3405/2014, the stage of giving relief to applicants of OA No. 1923/2016 has also not come.

5. In view of the aforesaid, we are of the opinion that this order has been substantially complied with. Accordingly, we close this CP and discharge the notice issued to the contemnors. The applicants shall however be at liberty to challenge the order of this Tribunal, if so advised.

**(Brahm Avtar Agrawal)**  
**Member (J)**

/ns/

**(Shekhar Agarwal)**  
**Member (A)**