

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

O.A. No. 2707/2016

M.A. No. 702/2017

M.A. No. 2424/2016

New Delhi this the 21st day of March, 2017

Hon'ble Mr. V. Ajay Kumar, Member (J)

Hon'ble Mr. P.K. Basu, Member (A)

1. Navinendu Shekhar, Inspector
Aged about 47 years,
S/o Shri K.C. Sharma,
R/o E-155, Sarojini Nagar,
New Delhi-110023.

2. Devinder Singh Negi,
Aged about 44 years,
S/o Shri B.S. Negi,
R/o GI-1038, Sarojini Nagar,
New Delhi-110023.

.. Applicants

(By Advocate : Shri M.K. Bhardwaj)

Versus

Union of India & Ors. through:

1. The Secretary (Revenue),
Ministry of Finance,
North Block, New Delhi.

2. Central Board of Direct Taxes,
North Block, New Delhi
Through its Chairperson.

3. The Principal Chief Commissioner of Income Tax(CCA),
Delhi, CR Building, New Delhi.

4. Dheeraj Kumar,
S/o Late Shri Rampal Singh,
Aged about 33 years,
R/o H .No.3, Gali No.22,
Village Gokalpur,
Delhi-110094.

5. Mukesh Kumar,
S/o Late Shri Jai Singh,
Aged about 34 years,
R/o C-1/32, Sec-16, Rohini,
Delhi-110089.
6. Pradeep,
S/o Late Shri Ved Prakash,
Aged about 35 years,
R/o D-51, 2nd Floor,
Bali Nagar, New Delhi-110015.
7. Subhash Chand,
S/o Shri Sheesh Ram Singh,
Aged about 31 years,
R/o Village Chand & Post Bisahra,
Distt. Gautam Budh Nagar,
U.P.-201008.
8. Naveen Kumar,
S/o Shri Bhikham Lal,
Aged about 37 years,
R/o RZ D-II, 95, Street No.5,
Mahavir Enclave, Delhi-110045.
9. Harish Chandra,
S/o Late Shri Ram Chand,
Aged about 55 years,
R/o Q.No.117, Type-II,
Sec-5, R.K. Puram,
New Delhi-110022.

.. Respondents

(By Advocate : Shri D.S. Mahendru for official respondents No.1-3
Shri Ajesh Luthra for private respondents No.4 to 9)

ORDER (ORAL)

By Mr. V. Ajay Kumar, Member (J)

Heard Shri M.K. Bhardwaj for the applicant, Shri D.S. Mahendru, learned counsel for official respondents and Shri Ajesh Luthra, learned counsel appearing for private respondents.

2. The applicants, who are working as Inspector (Income Tax), filed the present O.A. seeking the following relief(s):

- “(a) Call for the records of the matter;
- (b) To declare the action of respondents in not holding review DPC as per the decision taken in the meeting dated 14.03.2016 for rectifying the illegality committed in promoting SC/ST category Inspector Income Tax against unreserved vacancies inspite of passing I.T.O. examination on relaxed standard, as illegal and unjustified and direct the respondents to hold the review DPC for rectifying the illegality of promoting reserved category persons against unreserved vacancies of I.T.O. even after passing the examination of I.T.O. on relaxed standard before conducting any fresh DPC for promotion to the cadre of ITO.
- (c) To direct the respondents to consider the claim of applicants for promotion to the post of Income Tax Officer by adjusting the wrongly promoted SC/ST category Inspectors against the unreserved vacancies of I.T.O. as noted in the decision dated 14.03.2016.
- (d) To direct the respondents to consider the applicants for promotion to the post of ITO without applying reservation and fix seniority of applicants over and above their junior SC/ST category persons granted promotions as Inspector Income Tax & ITO by giving benefit of reservation.
- (e) To allow the OA with cost.
- (f) Pass any other orders that this Hon’ble Tribunal may deem fit in the facts and circumstances of the case.”

3. It is seen that the applicants filed the present O.A. seeking a direction to the respondents to proceed with the decisions taken in the meeting dated 14.03.2016 and the relevant part of the decisions reads as under:

“However, since the same did not appear to have been implemented in Delhi Charge, following decisions were taken in meeting to rectify this:-

- (i) The subsequent DPCs shall be done after considering all points of clarification letter dated 3/12/2012 issued by ADG(Exam.) and any other correspondence/instructions in this regard.
- (ii) A reference would be sent to ADG (Exam.) for clarifying whether these candidates have passed in general standard or reserved standard, and his views with regard to their qualification as per reservation policy related to examination.
- (iii) Further action, including the need to examine conduct review DPCs would be initiated keeping in view the clarificatory note dated 13/12/2012 issued by the ADG (Exam.) in respect of the employees/candidates mentioned in the applications.”

4. The official respondents, while not disputing the aforesaid fact of taking certain decisions in meeting held on 14.03.2016, however, submits that in view of the stay granted by this Tribunal and also due to pendency of the present O.A., they are not able to proceed further in pursuance of the said decisions and, accordingly, filed MA 702/2017 seeking vacation of stay.

5. The private respondents, while submitting that the decision taken by the respondents in the aforesaid meeting dated 14.03.2016 is unwarranted in view of the various decisions and judicial pronouncements, however, seeks vacation of interim stay.

6. In the circumstances and for the aforesaid reasons, we dispose of the present O.A. by permitting the official respondents to proceed

further in accordance with the decisions taken by them in the meeting held on 14.03.2016, keeping in view the various decisions of various courts which are having a bearing on the issue.

7. In view of the disposal of the O.A., the interim stay granted on 10.08.2016 is vacated. Both the applicants and private respondents are at liberty to avail their remedies, in accordance with law, if they are aggrieved with any of the future orders or actions of the official respondents. No order as to costs.

(P.K. BASU)
MEMBER (A)

(V. AJAY KUMAR)
MEMBER (J)

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