

RA.No.170/00043/2016/CAT/BANGALORE

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH

REVIEW APPLICATION NO.170/00043/2016

IN

ORIGINAL APPLICATION NO.1580-1589/2014

DATED THIS THE 06<sup>TH</sup> DAY OF FEBRUARY, 2018

**HON'BLE DR.K.B.SURESH, MEMBER (J)**

**HON'BLE SHRI PRASANNA KUMAR PRADHAN, MEMBER (A)**

1. M.G. Ramachandra  
S/o S.M. Guptha,  
Aged about 39 years,  
Inspector of Central Excise,  
O/o. Commissioner of Central Excise,  
Audit Commissionerate,  
No. 16/1, S.P. Complex,  
Lalbagh Road, Bangalore – 560 027.
2. Gopalraju D.R.  
S/o Late D. A. Ram Raj,  
Aged about 43 years  
Inspector of Central Excise,  
O/o. The Commissioner of Central Excise,  
Audit Commissionerate,  
S-1 & S-2, Vinaya Marg,  
Siddharth Layout,  
Mysore – 570 011.
3. Gururaj G. Nayak,

S/o Gundurao J. Naik,  
Aged about 40 years,  
Inspector of Customs,  
O/o. The Commissioner of Customs,  
City Commissionerate, C.R. Building,  
Queen's Road,  
Bangalore – 560 001.

4. Ramakrishna Haran. J  
S/o P. Jayaraman  
Aged about 45 years,  
Inspector of Central Excise,  
O/o. The Chief Commissioner of Central Excise,  
P.B. No. 5400, Queen's Road,  
Bangalore – 560 001.

5. K.M. Kishore,  
S/o K.M. Ganapathi Bhat,  
Aged about 43 years,  
Inspector of Central Excise,  
O/o. The Commissioner of Central Excise,  
Audit Commissionerate,  
S-1 & S-2, Vinaya Marg,  
Siddharth Layout, Mysore – 570 011.

6. M. Sunil,  
S/o P.K. Lakshmyanarayanan,  
Aged about 43 years,  
Inspector of Central Excise,  
O/o. The Superintendent of Central Excise,  
Peenya Q & R Range,  
Peenya II Division, Bangalore – II Commissionerate,  
3rd Floor, S.P. Complex, Lalbagh Road,  
Bangalore – 560 027.

7. Ramesh B. Tapashi,  
S/o Bhimappa R. Tapashi,  
Aged about 39 years,  
Inspector of Central Excise,  
O/o. The Asst. Commissioner of Central Excise,  
Belgaum Division, 1st Floor,  
Central Excise Building, No. 71, Club Road,  
Belgaum – 590 001.

8. G. Ravi,  
S/o T.N. Govindaraj,  
Inspector of Customs,  
Office of the Superintendent of Customs,  
New Custom House, Mangalore.

9. Ravikumar A.  
S/o. Late Shri Ananda A,  
Aged about 40 years,  
Inspector of Central Excise,  
O/o. Commissioner of Central Excise,

Audit Commissionerate,  
No. 16/1, 4th Floor, S.P. Complex,  
Lalbagh Road, Bangalore – 560 027

10. Chandar S.R.  
S/o T.R. Srinivasan,  
Aged about 47 years,  
Inspector of Central Excise,  
O/o. The Superintendent of Central Excise,  
Dasarahalli East Range, II Floor,  
S.P. Complex, Lalbagh Road,  
Bangalore – 560 027.

.....Review Applicants

(By Advocate Shri N.G. Phadke)

Vs.

1. The Union of India,  
Represented by the Secretary,  
Ministry of Finance,  
Department of Revenue,  
North Block, New Delhi – 110 001.

2. The Central Board of Excise & Customs,  
Department of Revenue,  
Ministry of Finance,  
Government of India,  
North Block, New Delhi – 110 001.  
By its Chairman.

3. The Chief Commissioner of Central Excise,  
Bangalore Zone,  
Central Revenue Building,  
Queens Road,  
Bangalore – 560 001.

.... Review Respondents

(By Shri M.V. Rao, Senior Panel Counsel)

### O R D E R (ORAL)

(HON'BLE DR. K.B. SURESH, MEMBER (J))

Heard. Two issues are formulated by the review applicants. One is that apparently the Government while promoting them had relaxed the qualificatory barrier. Shri N.G. Phadke, learned counsel for the review applicants, would say

that Government has the power to reduce the qualification regulating the experience and promote suitable candidate as they deem fit whereas the Recruitment Rules says that if sufficiently qualified people are not available Government must resort to direct recruitment. In terms of our earlier order we held that if the qualificatory barrier as provided by the Recruitment Rules are not complied with there cannot be any promotions but if they have done it then they can consider. It is therefore a conditional order which the respondents may or may not implement in accordance with the circumstances available for each of the candidate.

2. Regardless to this and contrary to the causes of action as provided in the statute for Administrative Tribunals, new ground has also been taken that before complying with the direction issued by the Hon'ble Supreme Court in the Nagaraj's case a detailed survey was not conducted by the respondents and applicants were demoted and others were promoted in their place. He would also say that one of the OMs on which he did not rely is opposed and has been quashed by the Hon'ble High Court of Punjab and Haryana. We are not in possession of this knowledge and even if we are in possession of this knowledge we cannot do anything because we do not have any power to add or subtract/decide the implementation of the Hon'ble Apex Court order. Needless to say even otherwise also this will not lie for the very simple reason that all those who are affected by the RA are not in the party array and without hearing them we are not in a position to decide whether they are qualified or the applicants are qualified. So, on these multiple grounds, the RA is dismissed. No order as to costs.

(PRASANNA KUMAR PRADHAN)

MEMBER (A)

(DR.K.B.SURESH)

MEMBER (J)

/ksk/

**Annexures referred to by the applicant in RA No. 170/00043/2016**

**Annexure-RA1:** Copy of Central Administrative Tribunal, Bangalore Bench Order dated 16.03.2016 in OA No. 1580 to 1589/2014

**Annexures referred in Reply Statement**

**Annexure-R1:** Copy of List of SC/ST Officers promoted against UR/SC/ST quota as per the Review DPC held during November & December 2010

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