

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, CALCUTTA BENCH, CALCUTTA

Pl. A. No. 174 / 2017
O. A. No. 289 / 2017
2017

In the matter of:

1. UDITYA NARAYAN, aged about 34 years,
son of Late Jai Narayan Pandey, residing at
Aayakar Niwas, 18, Ultadanga Main Road,
Kolkata-700067 and working to the post of
Inspector in the Income Tax Department in
the office of Joint Commissioner of Income
Tax, Range-7, 5th Floor, Aayakar Bhawan,
Kolkata-700069;
2. VIKASH KUMAR, son of Shri Ashok Kumar
Mehta, residing at 137, V.I.P. Road,
Kolkata-700067 and working to the post of
Inspector in the Income Tax Department in
the office of Joint Director of Income Tax,
Unit-1, 4th Floor, Aayakar Bhawan Annexe,
Kolkata-700069.
3. SHARAD KUMAR, son of Shri Rama Kant
Mishra, residing at 95/2, Bosepukur Road,
Kolkata- 700 042 and working to the post of
Inspector in the Income Tax Department in
the office of Principal CIT-2, Aayakar

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Adi. C. P. + P. S. S. S.

Bhawan, Kolkata-700069.

4. RAUSHAN KUMAR ROY, son of Shri Pravin Roy, residing at Flat No- 200B, Block-D, Rupasi Abasan, Naipukur Rajarhat, Kolkata-700135 and working to the post of Inspector in the Income Tax Department in the office of Joint Commissioner of Income Tax, Range-6, 6th Floor, Aayakar Bhawan, Kolkata-700069.
5. NAYAN BASU, son of Shri Tapas Basu, residing at 171B, Arabinda Sarani, Kolkata -700006 and working to the post of Inspector in the Income Tax Department in the office of Joint Commissioner of Income Tax, , Range-5, 8th Floor, Aayakar Bhawan, Kolkata-700069.
6. ANAND RANJAN, son of Shri Ajit Kumar, residing at Aayakar Niwas, 18 Ultadanga Main Road, Kolkata -700067 and working to the post of Inspector in the Income Tax Department in the office of Joint Commissioner of Income Tax, Range-5, 8th Floor, Aayakar Bhawan, Kolkata-700069.

Uditya

Uditya Sonu

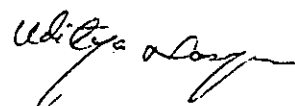
...Applicants

-Versus-

1. UNION OF INDIA service through the
Secretary, Ministry of Finance, Department
of Revenue Government of India, 128-B,
North Block, New Delhi-110001.
2. THE CHAIRMAN, Government of India,
Ministry of Finance, Central Board of Direct
Taxes, Directorate of Income Tax (Human
Resource Development), ICADR Building,
Plot No. 6, Vasant Kunj Institutional Area,
Phase-II, New Delhi-110070;
3. THE PRINCIPAL CHIEF COMMISSIONER
OF INCOME TAX (CCA), West Bengal &
Sikkim, Aayakar Bhawan, P-7, Chowringhee
Square, Kolkata- 700069.
4. THE CHIEF COMMISSIONER OF
INCOME TAX-1, Kolkata, Aaykar Bhawan,
1st Floor, P-7, Chowringhee Square,
Kolkata-700069.

...Respondents

5. CHANDRA NATH DEY, presently working to
the post of Income Tax inspector in the



office of Addl. / Joint Commissioner of
Income Tax, Range-34, 7th Floor, Aayakar
Bhawan (Poorva), Kolkata-700107.

6. MANAS BAG, presently working to the post
of Income Tax inspector in the office of
CCIT (CCA)-1, Aaykar Bhawan, P-7,
Chowringhee Square, Kolkata-700069.
7. SOUGATA BHADURI, presently working to
the post of Income Tax inspector in the
office of TRO-4, CIT-4, Aaykar Bhawan,
P-7, Chowringhee Square, Kolkata-700069.
8. SANTANU NAG, presently working to the
post of Income Tax inspector in the office of
JDIT, Range:36, Aaykar Bhawan (poorva),
110, Shantipally, Kolkata-700107.
9. SUSHIL KUMAR BOSE, presently working
to the post of Income Tax inspector in the
office of CCIT (CCA)-1, Aaykar Bhawan,
P-7, Chowringhee Square, Kolkata-700069.
10. SUBRATA BAGACHI, presently working to
the post of Income Tax inspector in the
office of Joint Commissioner of Income Tax,

AC

U. B. Singh

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Range-5, 8th Floor, Aayakar Bhawan.

Kolkata-700069.

...Private Respondents.

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No. O.A. 350/00289/2017
M.A. 350/00174/2017

Date of order: 9.3.2017

Present : Hon'ble Mr. A.K. Patnaik, Judicial Member

For the Applicant : Mr. P.C. Das, Counsel

For the Respondents : Mr. S.K. Das, Counsel

ORDER (Oral)

Heard Mr. P.C. Das, Ld. Counsel for the applicant and Mr. S. Paul, Ld. Counsel for the respondents.

2. This O.A. has been filed under Section 19 of the AT Act, 1985 challenging the impugned Circular dated 15.2.2016 issued by the Deputy Commissioner of Income Tax, Headquarters (Personnel & Establishment) West Bengal & Sikkim in respect of circulation of the seniority of the Cadre of Inspector of Income Tax in the regions of West Bengal and Sikkim by violation of the order of the Hon'ble Supreme Court in Civil Appeal No. 7514/7515 of 2005 in the case of Union of India & ors. v. N.R. Parmar & ors. in respect of the case of the present applicants along with Gradation List in the Cadre of Inspector of Income Tax as on 1.4.2016 being Annexure A-8 of this original application and non-consideration of the representations made by the applicants individually dated 9.10.2015 and onwards by the respondent authority in respect of assignment of seniority of the present applicants with effect from 21.1.2010 in the light of the decision of the Hon'ble Supreme Court in Civil Appeal No. 7514/7515 of 2005 in the case of Union of India & ors. v. N.R. Parmar & ors. and in the light of the clarification issued by the Central Board of Direct Taxes dated 07.11.2014, 16.1.2015 and 29.1.2016 seeking the following reliefs:-

"(a) Leave be granted to move one single application jointly under Rule 4(5)(a) of the Central Administrative Tribunal (Procedures) Rules, 1987 as the applicants have got a common grievances against the same impugned order and all of them are similarly circumstanced persons;



(b) To quash and/or set aside the impugned Circular/order dated 15.02.2016 by which the final seniority list has been circulated by the respondent department in the Cadre of Inspector along with Gradation List in the Cadre of Inspector as on 01.04.2016 in respect of the present applicant and to assign the appropriate seniority position of the present applicants in the vacancy year 2009-10 in the light decision of the Hon'ble Supreme Court in Civil Appeal No. 7514/7515 of 2005 in the case of Union of India & Ors., vs. N.R. Parmar & Ors and also in the light of the clarification issued by the Central Board of Direct Taxes dated 07.11.2014, 16.01.2015 and 29.01.2015;

(c) To pass an appropriate order directing the respondent authority to assign the appropriate seniority of the present applicants in the Cadre of Income Tax Inspector in the vacancy year of 2009-10 with effect from the date of requisition letter sent by the Income Tax Department before the Staff Selection Commission for filling up of the vacancy of 482 posts of Income Tax Inspector since your applicants are being declared successful in the said vacancy year of 2009-10 and for that particular vacancy year, a requisition letter was sent by the Income Tax Department to the Staff Selection Commission with effect from 21.01.2010 and then in terms of the decision of the Hon'ble Supreme Court in Civil Appeal No. 7514/7515 of 2005 in the case of Union of India & Ors., vs. N.R. Parmar & Ors and also in the light of the clarification issued by the Central Board of Direct Taxes dated 07.11.2014, 16.01.2015 and 29.01.2015, your applicants are entitled to get their seniority position in the vacancy year 2009-10 in the Cadre of Income Tax Inspector.

(d) To pass an appropriate order directing the respondent authority that after assignment the seniority position of the present applicants in the Cadre of Income Inspector in the vacancy year 2009-10 in the light of the decision of the Hon'ble Supreme Court in Civil Appeal No. 7514/7515 of 2005 in the case of Union of India & Ors. vs. N.R. Parmar & Ors and also in the light of the clarification issued by the Central Board of Direct Taxes dated 07.11.2014, 16.01.2015 and 29.01.2015, the subsequent promotion to the post of Income Tax Officer may be considered in terms of the correct seniority position of the applicants along with all consequential benefits."

3. The applicants have got appointment to the post of Income Tax Inspector and they are presently working in the said post in the various offices of the Income Tax Department in the State of West Bengal. On 10.12.2009 the respondent authorities vide office memo notified the vacancy to the post of Income Tax Inspector in the Pay Scale of Rs. 9300-34800 with Grade Pay of Rs. 4600/- and forwarded the same to the Staff Selection Commission for conducting the selection for filling up of such vacancies. The respondent authorities sent a requisition for filling up of the

vacancies of 482 posts of Income Tax Inspector before the Staff Selection Commission on 21.1.2010. The Staff Selection Commission published an employment notification for conducting Graduate Level Examination of 2010 on 30.1.2010. The Hon'ble Supreme Court passed an order in Civil Appeal No. 7514/7515 of 2005 in the case of Union of India & ors. v. N.R. Parmar & ors. on 27.11.2012. On 7.11.2014 The Government of India, Ministry of Finance, Central Board of Direct Taxes, Directorate of Income Tax issued an office memo whereby they have clarified that the seniority of the Direct Recruit would arise from the year in which the requisition has been sent to Staff Selection Commission in terms of the Hon'ble Supreme Court's decision dated 27.11.2012. On 9.10.2015 the applicants preferred representations individually before the respondent authorities for giving their seniority with effect from 21.1.2010 in the light of the decision of the Hon'ble Supreme Court in Civil Appeal No. 7514/7515 of 2005 in the case of Union of India & ors. v. N.R. Parmar & ors. but till date there is no response.

4. Mr. P.C. Das, Ld. Counsel for the applicant brought to my notice that ventilating their grievance the applicants have preferred representation individually on 9.10.2015 to the Principal Chief Commissioner of Income Tax (CCA) i.e: respondent No. 3, which is still pending consideration.

4. At this juncture, Mr. P.C. Das, Ld. Counsel for the applicant submitted that the applicants will be more or less satisfied if a specific time frame is granted to the respondent No. 3 to consider and dispose of the said representation.

5. Therefore, without entering into the merits of the matter this O.A. is disposed of by directing the respondent No. 3 that if any such representation has been preferred and is still pending consideration then



the same shall be considered and disposed of by way of a well reasoned order in the light of the judgment rendered by the Hon'ble Apex Court in the case of Union of India & ors. v. N.R. Parmar & ors. delivered on 27.11.2012 in Civil Appeal No. 7514/7515 of 2005 as well as CBDT Advisories for implementation of the judgment of the Hon'ble Supreme Court of India in the case of N.R. Parmar (supra) and communicate the decision taken by a well reasoned order within a period of two months from the date of receipt of a copy of this order and after such consideration if the applicants' grievance is found to be genuine and are in conformity with the ratio decidendi with the judgment of the Hon'ble Apex Court, then expeditious steps preferably within 3 months may be taken to extend the benefits to the applicants.

7. With the aforesaid observation and direction, the M.A. and O.A. are disposed of. No costs.

8. I make it clear that as I am not entering into the merits of the matter. I hope that if there is any erroneous fixation of seniority as alleged by the applicants and the applicants' claim is found to be genuine then the respondent No. 2 and 3 will take necessary steps to rectify the seniority list which has already been published by the respondents.

9. A copy of this order along with paper book be transmitted to the respondent No. 3 by speed post for which Mr. P.C. Das undertakes to deposit necessary cost within a period of 7 days.

(A.K. Patnaik)
Judicial Member