

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION No.528/2015

Date of Decision: 27.09.2018.

CORAM:HON'BLE DR. BHAGWAN SAHAI, MEMBER (A)
HON'BLE SHRI R.N. SINGH, MEMBER (J)

1. Sunil Kumar Gavaskar
Son of Shri Parmanand Prasad,
DOB: 30.11.1977, Age 38 years,
Working as Sr. Tax Assistant,
Group C Post, Under office of the Principal
Commissioner of Income Tax-24,
Piramal Chambers, Lower Parel, Lalbaug,
Parel, Mumbai 400 012.
R/at 1933/48, 2nd Floor, S.M. Plot,
CGS Colony, Antop Hill, Sector VII,
Mumbai 400 037.
2. Babita Jaglan (wife of Satish Kumar)
DOB: 20.04.1980,
Age 35 years) working as Sr. Tax Assistant
Group C Post, under the office of the Income-Tax
Officer 4(3)(4) Room No.637, 6th Floor,
Aayakar Bhawan, Marine Line, Mumbai 20.
R/at Bldg. No.54, Q. No.2250, Sector-VII,
CGS Colony, S.M. Plot, Antop Hill,
Mumbai 400 037.
3. Sunil Kumar Sharma,
Son of Shri Ayodhya Sharma,
DOB: 15.08.1979, Age 36 years,
Working as Sr. Tax Assistant, Group C Post,
Under office of the DCIT CC-1(4) Old CGO,
Pratishta Bhawan, 9th Floor, M.K. Road,
Mumbai 20. R/at 301, 3rd Floor, (Amogh_
Asthvinayak Gurukul Shankul Phase-II,
Adai, New Panvel, Post, Taluka and
Dist. Raigarh, Navi Mumbai 410 206.
4. Prabhakar Pankaj,
Son of Pawan Kumar Gupta,
DOB: 18.09.1983, Age 32 years,
Working as Sr. Tax Assistant, Group C Post,
Under office of the Pr. CIT-3, Room No.667A,

Aayakar Bhavan, M.K. Road, Mumbai 20.
R/at 302, 15B/Income Tax Colony, Rambaug,
Powai, Mumbai 400 076.

5. Pramod Kumar
Son of Shri Ramlakhan Rai,
DOB: 15.05.1984, Age 31 Years,
Working as Sr. Tax Assistant, Group C Post,
Under office of the Addl. CIT, Range-3(3),
Aayakar Bhawan, Mumbai 400 020.
R/at 53/2191, CGS Colony, Antop Hill,
Mumbai 400 037.
6. Harendra Sah,
Son of Shri Sahadur Sah,
DOB: 05.01.1973, Age 43 years,
Working as Sr. Tax Assistant, Group C
Post, Under office of the Income Tax
Officer 4(2)(4), Room No.669, 6th Floor,
Aayakar Bhawan, Mumbai 20.
R/at Bldg. No.46, 1st Floor, Q.No.1796,
S.M. Plot, Post-Antop Hill.
7. Vikash Chandra Sharma
Son of Shri Baidyanath Sharma,
DOB: 06.06.1978, Age 37 years,
Working as Sr. Tax Assistant, Group C Post,
Under office of the DCIT CC3(4),
Mumbai R.No.465, 4th Floor, Aayakar Bhawan,
Mumbai 400 020.
R/at 187/1818, Ground Floor, CGS Colony,
Antop Hill, Sector-VI, Mumbai 400 037.
8. Awadesh Kumar Singh,
Son of Shiv Prasad Singh, DOB 15.02.1973,
Age 42 years , Working as Sr. Tax Assistant,
Group C Post, Under office of the Pr. Commissioner
of Income-tax-14, Aayakar Bhawan, Mumbai 20,
R/at 48/1902, 2nd Floor, CGS Colony, Sector 7,
Antop Hill, Mumbai 400 037.
9. Subodh Kumar Roy,
Son of Shri Shyamnandan Roy,
DOB: 18.01.1979, Age 37 Years,
Working as Sr. Tax Assistant, Group C Post,
Under office of the Additional CIT (TDS)
Rg1(1) & RG1(2), K.G. Mittal Hospital,
Charni Road, 8th Floor, Mumbai 400 02.

R/at Bldg. No.58, Room No.2475,
 3rd Floor, CGS Colony, Antop Hill,
 Sector VII, Mumbai 400 037.

... *Applicants*

(By Advocate Shri R.G. Walia)

VERSUS

1. Union of India,
 Through the Revenue Secretary,
 Ministry of Finance, Department of
 Revenue, Central Board of Direct
 Taxes, North Block, New Delhi 110 001.
2. The Chairman,
 Central Board of Direct Taxes (CBDT),
 Ministry of Finance, Dept. of Revenue,
 North Block, New Delhi 110 001.
3. Principal Chief Commissioner of Income-Tax,
 (CCA) Cadre Controlling Authority,
 3rd Aayakar Bhavan, M.K. Road,
 Churchgate, Mumbai 400 020.
4. Department of Personnel & Training (DOPT),
 Through Secretary, DOPT, North Block,
 New Delhi 110 001. ... *Respondents*

(By Advocate Shri R.R. Shetty)

ORDER (Oral)

Per : Shri R.N. Singh, Member (J)

In the aforesaid OA, the applicants have prayed for the following reliefs:

“8.a) This Hon’ble Tribunal will be pleased to call for the record which led to issuance of letter dated 31.05.2013 and 31.03.2014 and accordingly be pleased to order and direct the respondents to implement the same in letter and spirit i.e. to merge the 4 cadres/posts i.e. (a) Senior Tax Assistant (b) Office Superintendent (c) Stenographer Grade-I and (d) DEO (Data Entry Operator), to form a New Cadre i.e. Executive Assistant with effect from 25.03.2013.

8.b) Accordingly and as a consequence to prayer 8(a) be pleased to order and direct the respondents to Conduct Review DPCs of all

promotions granted after 31.05.2013 to the post of Income-Tax Inspector and to grant promotion purely on the basis of seniority fixed in the cadre of Executive Assistant.

8.c) This Hon'ble Tribunal will be pleased to direct the respondents to issue a merged seniority list in the cadre of Executive Assistant with effect from 25.03.2013 and accordingly review all promotions by conducting Review DPCs for promotions effected after 31.05.2013 and all further promotions to the post of Income Tax Inspector be directed to be granted purely on the basis of seniority as fixed in the cadre of Executive Assistant.

8.d) This Hon'ble Tribunal will be pleased to hold and declare that after 31.05.2013 the only feeder cadre available for promotion to the post of Income Tax Inspector was the feeder post/cadre of Executive Assistant.

8.e) This Hon'ble Tribunal will be pleased to order and direct the respondents to grant all consequential benefits to Executive Assistant who are promoted on the basis of Review DPCs from the date their juniors were originally promoted.

8.f) Any other and further orders as this Hon'ble Tribunal may deem fit, proper and necessary in the facts and circumstances of the case.

8.g) Costs of this Original Application may be provided for."

2. Heard the learned counsels for the parties.

3. Learned counsel for the applicants submits that there is no reason or justification for the respondents not to give effect to Cabinet decision which has been taken on 23.05.2013 (Annexure A-1) for

the staff of the Income Tax Department more particularly in view of the fact when the respondents have already given effect to that decision in respect of the employees working under the Central Board of Excise and Customs (CBEC).

4. In this regard, Shri R.R. Shetty, learned counsel for the respondents submits that neither he is having any objection nor he is aware as to whether the respondents have given effect to the Policy decision of the Cabinet dated 23.05.2013 in respect of the employees of CBEC. Be that as it may, once the decision has been taken by the Cabinet way back on 23.05.2013, the applicants are having legitimate expectation of its implementation for their better career progression. There seems no justification for not implementing it for five years unless it has been reversed subsequently.

5. In the facts and circumstances, OA is disposed of with direction to the respondents to take a final decision regarding implementation of the above referred Cabinet decision within four months

from the date of receipt of certified copy
of this order. No order as to costs.

(R.N. Singh)
Member (J)

(Dr. Bhagwan Sahai)
Member (A)

dm.