

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

O.A. No. 4681/2018

M.A. No. 5341/2018

The 21st day of December, 2018

HON'BLE MR. V. AJAY KUMAR, MEMBER (J)
HON'BLE MS. ARADHANA JOHRI, MEMBER (A)

1. Anirudh Kaushik, Sr. Tax Assistant, Group 'C'
Aged about 29 years,
S/o Sh. Jagat Narayan Kaushik,
R/o H.No. 172/2, Indira Colony, Rohtak,
Haryana-124001.
2. Ankit Kumar, Sr. Tax Assistant, Group 'C'
Aged about 28 years,
S/o Sh. Uday Narayan Shahi,
R/o D-2/92, Surender Colony, Part-I,
Jharoda, Delhi-110084.
3. Anil Hooda, Sr. Tax Assistant, Group 'C'
Aged about 30 years,
S/o Sh. Shilak Ram,
R/o S/o – Shilak Ram, VPO- Dhamar,
Distt-Rohtak, Haryana-124401.
4. Ajeet Kumar, Sr. Tax Assistant, Group 'C'
Aged about 27 years,
S/o Sh. Fulchand Prjapat,
R/o E-16, Gali No. 1, West Vinod Nagar,
Delhi-110092.
5. Ajay Chhillar, Sr. Tax Assistant, Group 'C'
Aged about 31 years,
S/o Sh. Rajpal Chhillar,
R/o H. No. 1986, Sec-06, Bahadur Garh, Jhajjar,
Haryana-124507.
6. Rahul Das, Sr. Tax Assistant, Group 'C'
Aged about 29 years,
S/o Sh. Bhola Prasad,
R/o M-80, 3rd Floor, Azad Pur,
New Delhi-110033.

7. Vipin Kumar Sharma, Sr. Tax Assistant, Group 'C'
Aged about 30 years,
S/o Sh. Rakesh Kumar Sharma,
R/o D-761, Gali No. 13, Ashok Nagar,
Shahdara, Delhi-110093.
8. Saurabh Kumar, Sr. Tax Assistant, Group 'C'
Aged about 25 years,
S/o Sh. Nanak Chand,
R/o B-12, Pandav Nagar, Akshar Dham,
New Delhi-110092.
9. Dilip Kumar, Sr. Tax Assistant, Group 'C'
Aged about 34 years,
S/o Sh. Vishwanath Prasad,
R/o Z-12, Second Floor, Deepak Vihar,
Uttam Nagar, New Delhi-110059.
10. Prem Chand Kumar, Sr. Tax Assistant, Group 'C'
Aged about 38 years,
S/o Sh. Sharda Charan Karn,
R/o RZL-13A/14, UG Floor, Street No. 3,
Main Sagarpur, New Delhi-110046.
11. Praveen, Sr. Tax Assistant, Group 'C'
Aged about 32 years,
S/o Sh. Rajbir Singh,
R/o 335, Meera Apartments,
Meera Bagh, Paschim Vihar,
New Delhi-110063.
12. Rohit Goel, Sr. Tax Assistant, Group 'C'
Aged about 32 years,
S/o Sh. Vishnu Kumar Agarwal,
R/o H.No. 202, F-41, Nafees Road,
Jamia Nagar, Batla House,
Delhi-110025.
13. Arun Singh Parmar, Sr. Tax Assistant, Group 'C'
Aged about 29 years,
S/o Sh. Satyavir Singh Parmar,
R/o 3rd Floor, Khasra No.423,
Opp. Patanjali, Laxmi Vihar,
Burari, Delhi-110084.

14. Anil Kumar Dubey, Sr. Tax Assistant, Group 'C'
Aged about 31 years,
S/o Sh. Lalta Prasad Dubey,
R/o B-556, Mangol Puri, New Delhi-110083.
 15. Ashish Mittal, Sr. Tax Assistant, Group 'C'
Aged about 32 years,
S/o Sh. Anil Kumar Mittal,
R/o H.No. 800, Sec-09, Faridabad,
Haryana-121006.
 16. Mehul Gautam, Sr. Tax Assistant, Group 'C'
Aged about 33 years,
S/o Sh. Gopi Ram Gautam,
R/o P-181, Street No.7, Bihari Colony,
Shahdara, Delhi-110032.
 17. Arun Kumar Rajawat, Sr. Tax Assistant, Group 'C'
Aged about 31 years,
S/o Sh. Krishan Kumar Rajawat,
R/o 2075, Mukim Pura, Subzi Mandi,
New Delhi-110007.
- .. Applicants

(By Advocate : Shri M.K. Bhardwaj)

Versus

1. Union of India,
Through its Secretary (Revenue)
Ministry of Finance,
North Block, New Delhi.
 2. Central Board of Direct Taxes,
Through its Chairman,
North Block, New Delhi.
 3. The Principal Chief Commissioner of Income Tax,
(CCA),
C.R. Building, I.P. Estate,
New Delhi.
- .. Respondents

(By Advocate : Shri Gyanendra Singh with Shri Manjeet Singh Reen)

ORDER (ORAL)**By Mr. V. Ajay Kumar, Member (J)**

Heard Shri M.K. Bhardwaj, learned counsel for the applicants and Shri Gyanendra Singh and Shri Manjeet Singh Reen, learned counsel appeared on behalf of the respondents, on receipt of advance notice.

2. MA 5341/2018 filed for joining together is allowed.

3. The applicants, who are working as Senior Tax Assistants under the respondents, filed the O.A. seeking the following relief(s):

- “(i) To direct the respondents to consider the applicants for promotion to the post of Inspector (Income Tax) by relaxing eligible service upto 02 years/half of service as per O.M. dated 25.03.1996 and the order of this Tribunal dated 12.05.2016 and Hon’ble High Court order dated 29.10.2018 and grant them promotion alongwith their juniors.
- (ii) To declare the action of respondents in not including the names of applicants in the eligibility list notified vide letter dated 18.12.2018 (A-1) for promotion to the post of Inspector (Income Tax) as illegal and arbitrary and direct the respondents to promote the applicants to the post of Inspector (Income Tax) alongwith their juniors with all consequential benefits.
- (iii) To allow the OA with costs.
- (iv) Any other reliefs as this Hon’ble Tribunal may deem fit and proper in the facts and circumstances of the case to meet the ends of justice.”

4. It is their short submission that the applicants are identically placed like the applicants in O.A. No. 3405/2014 decided on 12.05.2016 in *Pankaj Nayan & Ors. vs. UOI & Ors.* and though they

are entitled for extension of benefits of the said judgment, while considering their cases for promotion to the post of Inspector (Income Tax), when the respondents are not doing the same, they submitted representations vide Annexure A-7 (Colly.) dated 04/05.12.2018. However, the respondents without passing any orders thereon, proceeding further to conduct the DPC by considering the cases of juniors to the applicants and by ignoring the claims of the applicants.

5. Shri Gyanendra Singh and Shri Manjeet Singh Reen, learned counsel for the respondents, submit that the applicants submitted their representations only on 04/05.12.2018 and, without waiting for the six months' period, approached this Tribunal and on the said ground itself, the O.A. is liable to be dismissed. They further submit that whether the applicants are identically placed like the applicants in *Pankaj Nayan's* case or not and whether they are entitled for extension of benefit of the said decision or not, has to be examined and to be decided. They also submit that the respondents are also contemplating to file an SLP before the Hon'ble Apex Court against the orders in *Pankaj Nayan's* case.

6. However, the learned counsel for the respondents submit that they have no objection if the O.A. is disposed of by simply directing

the respondents to consider the representations of the applicants within a fixed timeframe.

7. In the circumstances, the O.A. is disposed of at the admission stage itself, without going into the merits of the case, by directing the respondents to consider the Annexure A-7 (Colly.) representations of the applicants, and to examine whether the applicants are identically placed like the applicants in the decision of this Tribunal in O.A. No.3405/2014, *Pankaj Nayan & Ors. vs. UOI & Ors.*, decided on 12.05.2016, and upheld by the Hon'ble High Court of Delhi in Writ Petition (No.) 11277/2016 dated 29.10.2018, and to pass appropriate reasoned and speaking orders thereon, in accordance with law, within a period of 90 days from the date of receipt of a certified copy of this order and if found that they are identically placed, the benefit of the said judgment shall be extended to them. If the applicants are aggrieved with rejection of their claim or with any other action of the respondents, they are at liberty to avail their remedies, in accordance with law, against the said action of the respondents. No order as to costs.

Let a copy of the O.A. be enclosed to this order.

(ARADHANA JOHRI)
Member (A)

(V. AJAY KUMAR)
Member (J)

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