

**CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH**

**OA No-4640/2018  
MA-5295/2018**

**New Delhi, this the 19<sup>th</sup> day of December, 2018**

**Hon'ble Sh. V. Ajay Kumar, Member (J)  
Hon'ble Sh. A.K. Bishnoi, Member (A)**

1. Jyoti, Inspector, Group 'B'  
Aged about 37 years,  
D/o. Sh. Brahm Deo Mishra,  
R/o. B-1/7, Rajapuri, Gali No.5,  
Uttam Nagar, New Delhi-110059
2. Ranjeet Kumar Sharma, Inspector, Group 'B'  
Aged about 43 years,  
S/o. Sh. Kedar Sharma,  
R/o. Block 34/401,  
Panchkuian Road, New Delhi-110001
3. Vishal Sharma, Inspector, Group 'B'  
Aged about 36 years,  
S/o. Late Sh. Basant Kumar Sharma,  
R/o. F-1,629-B, Sec-1,  
Vaishali, Ghaziabad, U.P.-201010
4. Manoj Sharma, Inspector, Group 'B'  
Aged about 35 years,  
S/o. Sh. Krishan Pal Sharma,  
R/o. H.No.16, Shree Ganesh Vatika,  
Govind Puram, Ghaziabad,  
U.P.-201013
5. Deepak Singh, Inspector, Group 'B'  
Aged about 35 years,  
S/o. Sh. Chander Pal Singh,  
R/o.UG-50, Ganpati Residency, Flora Enclave,  
Ghaziabad, U.P.

6. Yogesh Sharma, Inspector, Group 'B'  
 Aged about 35 years,  
 S/o. Sh. Mool Raj Sharma,  
 R/o. 138-C, Pkt-6, DDA MIG  
 Mayur Vihar-III,  
 Delhi-110096
7. Shantanu Singla, Inspector, Group 'B'  
 (aged about 37 years)  
 S/o. Narinder Parkash Singla  
 R/o. Flat-37-C, DDA Flata. Pkt-1,  
 Sector-10 Dwarka, New Delhi-110075
8. Pankaj Kumar, Inspector, Group 'B'  
 Aged about 36 years,  
 S/o. Sh. Ran Singh,  
 R/o. A-6/1, Garima Garden,  
 Sahibabad, Ghaziabad, U.P.        .. Applicants  
 (through Sh. M.K. Bharadwaj)

### Versus

1. Union of India,  
 Through its Secretary,  
 Department of Revenue,  
 Ministry of Finance,  
 North Block, New Delhi
2. The Chairman,  
 CBIC,  
 Ministry of Finance,  
 North Block, New Delhi
3. The Chief Commissioner of Central Excise,  
 Delhi Zone,  
 Ministry of Finance,  
 CR Building, IP Estate,  
 New Delhi.        ... Respondents  
 (through Sh. M.S. Reen)

## ORDER (ORAL)

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

Heard learned counsel for the applicants, Sh. M.K. Bharadwaj and Sh. M.S. Reen, learned counsel for the respondents appearing on receipt of advance notice.

**MA No. 5295/2018** filed for joining together is allowed.

**OA No. 4640/2018**

The applicants, who are presently working as Inspectors in Central Excise filed the OA seeking the following reliefs:

- “i) To declare the action of respondents in delaying the promotion of applicants to the post of Superintendent, Central Excise and at the same time promoting those Inspectors, Central Excise who have yet to acquire eligibility for promotion to the aforesaid post of Superintendent, Central Excise, as illegal, arbitrary and unjustified.
- ii) To direct the respondents to consider the applicants for promotion to the post of Superintendent Central Excise by granting them relaxation upto 02 years in eligibility service prescribed in RPs as per O.M. dated 25.03.1996 and grant them promotion from 01.04.2017 by holding review DPC and with all consequential benefits at par with their juniors.
- iii) To quash and set aside the order dated 06.04.2018 and direct the respondents to promote the applicants to the post of Superintendent, Central Excise on the same analogy on which the applicants in OA No.3405/2014, 1923/2016 & 2450/2016 with all consequential benefits.
- iv) To allow the OA with costs.
- v) Any other relief's as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case to meet the ends of justice.”

2. It is submitted that the applicants are identically placed like the applicants in OA No. 3405/2014 dated 12.05.2016 in **Pankaj Nayan & Ors. vs. UOI & Ors.** When the respondents did not extend the benefits of Pankaj Nayan (supra) decision to the applicants, they filed OA No. 258/2018 before this Tribunal. The said OA was disposed of with a direction to the respondents to consider the claim of the applicants keeping in view the decision in Pankaj Nayan case and to pass orders within a fixed time frame. Though the respondents complied with the said orders by passing a speaking order on 04.04.2018 (Annexure A/1), they however, rejected the claim of the applicants mainly on the ground that the Writ Petition against the Pankaj Nayan case is pending.

3. Today learned counsel for the applicants submits that though the applicants filed instant OA challenging the said impugned rejection order dated 04.04.2018 but after the respondents rejected the claims of the applicant vide Annexure A/1, the Hon'ble High Court of Delhi has dismissed the Writ Petition filed by the respondents in Pankaj Nayan case. Subsequently, the respondents in fact complied with number of orders of this Tribunal whereunder they were directed to consider the claims of the applicants therein, keeping in view the Pankaj Nayan

case. In respect of the applicants in spite of the representations made by them and even getting the notices issued on their behalf stating that the Writ Petition in Pankaj Nayan case was already dismissed and that their case is to be considered afresh, the respondents failed to do the same for all these days. Hence, the OA.

4. Learned counsel for the applicants further submits that the respondents without considering the claim of the applicants are proceeding to conduct DPC for promotion to the next post of Superintendent. If the respondents are allowed to conduct the DPC without considering the case of the applicants, who are fully eligible and qualified for consideration of their cases to the post of Superintendent, the applicants will be put to irreparable loss and hardship.

5. On the other hand, Sh. M.S. Reen, learned counsel for the respondents while admitting that the Writ Petition (C) No. 11277/2016 filed against the orders of this Tribunal in Pankaj Nayan case was dismissed on 29.10.2018, however, not disputed the fact that they are proceeding with the conducting of the DPC for next promotion of Superintendents.

6. In the circumstances, the OA is disposed of at the admission stage itself without going into the merits of the case by directing the respondents to re-consider the claim of the applicants

keeping in view the decision in Pankaj Nayan & Ors. vs. UOI & Ors. in OA No. 3405/2014 dated 12.05.2016 as upheld by Hon'ble High Court in WP(C) No. 11277/2016 dated 29.10.2018 within four weeks from the date of receipt of a certified copy of this order. Till then, the respondents shall not declare the result of the DPC, if any, conducted during the said period.

Order **dasti**.

**(A.K. Bishnoi)**  
**Member(A)**

**(V. Ajay Kumar)**  
**Member(J)**

/ns/