

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Review No 516 of 2012

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- 1 The Union of India through the Secretary, Central Board of Excise and Customs, Government of India, New Delhi
 - 2 The Additional Collector (Personal and Vigilance), Central Excise Revenue Building, Patna
 - 3 The Deputy Secretary to the Government of India, Ministry of Personnel and Public Grievances and Pensions, Department of Personnel and Training
 - 4 Assistant Collector (Customs) also known as Assistant Commissioner, Government of India, Motihari Customs (P) Division, Motihari
 - 5 Assistant Collector (Customs) also known as Assistant Commissioner, Government of India, Muzaffarpur Customs (P) Preventive Division, Muzaffarpur

.... Petitioner/s

Versus

- 1 Smt Budhiya Devi, wife of Shri Prakash Mukhiya, resident of Sara Chowk, Ward No 2, PO and PS – Gopalganj, District – Gopalganj
- 2 Yogendra Sah, son of Shri Bhagwan Sah, resident of Banjariya Patuaura, PO and PS – Motihari, District – East Champaran
- 3 Surendra Upadheya, son of late Tarkeshwar Upadheya, resident of Village – B B Bankatwa, PO & PS – Balmikinagar, District – West Champaran
- 4 Purushottam Giri, son of Shri Yogendra Giri, resident of Nakshay Tola, Near Gauri Shankar Middle School, PO & PS – Motihari, District – East Champaran
- 5 Harihari Rai, son of Shri Jay Govind Rai, resident of Village – Alkdehi, PO & PS – Chhouradano, District – East Champaran
- 6 Ashok Kumar, son of late Nathuni Mahto, resident of Mohalla – Balbarwa, PO & PS – Motihari, District – East Champaran
- 7 Mahesh Kumar, son of late Shambhu Mahto, resident of Mohalla – Belbanwa, PO & PS – Motihari, District – East Champaran
- 8 Ram Chandra Mahto, son of late Shiv Charan Mahto, resident of Village – Belwanwa, PO & PS – Motihari, District – East Champaran
- 9 Hriday Kumar, son of Shri Ashok Raut, resident of Village – Navjivan Nagar, PO & PS – Bettiah, District – West Champaran (Bettiah)
- 10 Meena Devi, wife of Munna Raut, resident of Village – Coat Market Pani Tanki Beluper, PS & District – Sitamarhi
- 11 Bedami Devi, wife of Banshi Rai, resident of Village – SDO Court, Near T V Centre, PO & PS – Town, District – Siwan
- 12 Asha Devi, wife of Rajendra Ram, resident of Village – Jain Nagar Customs Office, PO – Jai Nagar, District – Madhubani
- 13 Devendra Pandit, son of Jang Baghadur Padndit, resident of Village – Rajkhand, PS & PO – Gaoraul, District – Vaishali
- 14 Manoranjan Prasad Singh, son of Shri Ambika Prasad Singh, resident of village – Salempur, PO – Sutihar, PS – Derni, District – Saran at Chapra
- 15 Umesh Paswan, son of Shri Mahadeo Paswan, resident of Village – Barrakishun, PS – Baira Esmike, PS – Manihari, District – Muzaffarpur
- 16 Mantu Paswan, son of Shri Durga Paswan, resident of Village – Rajkhand, PO & PS – Goraul, District – Vaishali
- 17 Ram Chandra Paswan, son of Shri Shiv Nrain Prasad, resident of Village & PO – Niranjanpur, PS – Mahendia, District – Jehanabad
- 18 Registrar, Central Administrative Tribunal, Patna Bench, Patna

.... Respondent/s

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For the Petitioner/s : Mr Sanjay Kumar, ASG

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CORAM: HON'BLE MR JUSTICE NAVANITI PRASAD SINGH
And
HON'BLE MR JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

(Per: HONOURABLE MR JUSTICE NAVANITI PRASAD SINGH)

Date: 22-04-2015

It appears that 17 persons, some of whom were connected with Motihari Division of the Customs Department and some with Muzaffarpur Division, had moved the Central Administrative Tribunal (For brevity, *the Tribunal*) by filing OA No 41 of 1999 for a direction to the Union of India through the Department of Customs to grant them temporary status and consequential benefit of the scheme as framed by the Department in the year, 1993. By order dated 22nd of January 2004, the Tribunal disposed of the matter in the following terms:

“12. After hearing the rival submissions of the parties, I am of the considered opinion that the present case is covered by the decisions given by this Court in a number of cases as referred to hereinabove. Therefore, taking the similar view as has been taken in the case of Suman Kumar Singh and Ors Vs UOI & Ors and other cases decided by this Bench as referred to hereinabove, I hold that the applicants are entitled for grant of temporary status and regularization thereafter as per seniority. In view of this, the concerned respondents are directed to consider the cases of the applicants for grant of temporary status and regularization thereafter as per law and the

Scheme framed on the subject, from the date when their juniors were conferred such temporary status and regularization, as the case may be. So far as plea for consequential benefits for the payment of arrear of back wages, if any, till date is concerned, necessary orders be passed by the respondents in this regard, after verifying the factual position of the matter and after giving personal hearing to the applicant.”

2 It is apparent that no final adjudication of individual rights of the individual applicants was made by the Tribunal and it was left to the authorities to examine the cases and pass necessary orders pursuant to the 1993 scheme of the Department. On some advice, the Department filed a writ petition in this Court being CWJC No 3414 of 2005 challenging the order of the Tribunal, as aforesaid. The writ petition came to be disposed of by judgment and order dated 20.09.2012, again without any adjudication. It was virtually disposed of by consensual order whereby cases of some of the applicants, as before the Tribunal, were dismissed presumably on the ground that they were engaged after 1993. There was no interference in respect of certain applicants. In our view, the result of the disposal of the writ petition accordingly was that the order of the Tribunal to consider the cases in respect of some of them remained. There was no adjudication on individual rights. Apparently, problem has arisen because of lethargic attitude on part of the departmental officers. Though the order of the Tribunal was passed in 2004 and the writ

petition was disposed of in 2012 and we are in 2015, there has been no speaking order adjudicating upon the rights of the persons by the Department and, as such, CCPA 105 of 2005 is being pressed before the Tribunal. Learned counsel for the Department humbly submits that, if granted one month's time, the Department would consider and pass speaking orders in respect of persons where this Court did not interfere with the order of the Tribunal.

3 We have considered the matter and it is mere formality which they seek and only a formal order extending the time for compliance has to be passed. We think a month's time from today would meet the ends of justice where the Department should pass final orders accordingly.

4 This application, thus, stands disposed of.

(Navaniti Prasad Singh, J)

M.E.H./-

(Chakradhari Sharan Singh, J)

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