

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14625 of 2012

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1. The Union of India through the Secretary, Ministry of Finance, Department of Revenue, North Block, New Delhi.
 2. Under Secretary to the Government of India, Ministry of Finance, Department of Revenue, Jeevandeep Bhawan, Parliament Street, New Delhi.
 3. Commissioner, Central Excise of Customs, Central Revenue Building, Beerchand Patel Path, Patna.
 4. Additional Commissioner (Personnel and Vigilance), Central Excise (Head Quarter), Central Revenue Building, Beerchand Patel Path, Patna.

.... Petitioners

Versus

1. Amresh Chandra Sinha S/O Late Biresh Chandra Sinha Resident of Village Phulwariya (Chaudhary Tola), P.O. And P.S. Phulwari, Barauni, District Begusarai, at present posted as T.A. at C. Eh (H) Patna.
2. Pawan Kumar Shandilya S/O Late Ram Ratan Sharma, resident of village - Kohrampur, P.S. Motihari, District Begusarai, at present posted as T.A. at Central Excise Division, Muzaffarpur.
3. Suresh Kumar Sharma S/O Sri Jagdish Prasad, resident of Village Sarai, P.S. Sahpur (Danapur), District Patna at present posted as T.A. at Central Excise (Head Quarter Office) Patna, District Patna.
4. Vikash Chandra S/O Late Jagdish Chandra Prasad Ambastha R/O Village Baghmali, P.O. And P.S. Hazipur, District Vaishali at present posted as T.A. at Central Excise (H), Patna.
5. Sheo Shankar Prasad S/O Sri Sheodhar Ram R/O Village Madanpur, (Nautan), P.S. Narawan, District Sagar, at present posted as T.A. at C. Ex. Division, Muzaffarpur, District Muzaffarpur.
6. Rabindra Kumar Chaubey S/O Shri Rameshwar Chaubey Resident of Central Excise Range TISCO 1 Near General Office Mohalla & P.O. Bistupur, District Jamshedpur.
7. Kapildeo Prasad S/O Shri C.D. Ram Resident of Mohalla New Damaria, P.O. Anishabad, P.S. Gardanibagh, District Patna.
8. Akhilesh Kumar Singh S/O Shri Brajnandan Singh R/O Mohalla And Post Office Sonapur Lakdi Bazar, District Saran.
9. Ashok Kumar S/O Shri Ramswaroop Sharma, resident of Mohalla Paibigha, District Jehanabad, Present Resident Art. 1 New Type-II, Central Revenue Colony, Ashiana Nagar, Patna.
10. Vijay Kumar Shrivastava S/O Sri R.K. Prasad, resident of Central Excise Division No. 2 K. 3/60, H.S. Road, Telco Colony, Jamshedpur.

11. Sanjay Kumr Gupta S/O Shri Krishna Mohan Sahu, resident of Anuradha Sadan, West Ashok Nagar, Road No. 1, Patna.
12. Sudesh Kumar S/O Shri J.K. Karan resident of Central Excise Division No. 2 K. 360, H.S. Road, Telco Colony, Jamshedpur.
13. Central Administrative Tribunal, through Registrar Patna.

.... Respondents

With

Civil Writ Jurisdiction Case No. 923 of 2012

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1. Rabindra Kumar Chaubey S/O Shri Rameshwar Chaubey R/O Central Excise Range, Tisco-1, Near General Offices, Mohalla & P.O.- Bistupur, District- Jamshedpur
 2. Kapildeo Prasad S/O Shri C.D. Ram R/O Mohalla- New Damaria, P.O.- Anishabad, P.S.- Gardanibagh, District-Patna
 3. Akhilesh Kumar Singh S/O Shri Brajnandan Singh R/O Mohalla and Post Office- Sonapur, Lakdi Bazar, District- Saran
 4. Ashok Kumar S/O Shri Ramswaroop Sharma R/O Mohalla- Paibigha, District- Jahanabad, Present Resident - Qtr. No.1, New Type-Ii, Central Revenue Colony, Ashiana Nagar, Patna
 5. Vijay Kumar Shrivastava S/O Shri R.K. Prasad R/O Central Excise Division No.2, K-3/60, H.S. Road, Telco Colony, Jamshedpur
 6. Sanjay Kumar Gupta S/O Shri Krishna Mohan Sahu R/O Anuradha Sadan, West Ashok Nagar, Roadno.1, Patna-20
 7. Sudesh Kumar S/O Shri J.K. Karan R/O Central Excise Division No.2, K-360, H.S. Road, Telco Colony, Jamshedpur

.... Petitioners

Versus

1. Union of India, through the Secretary Ministry of Finance, Department of Revenue, North Block, New Delhi
2. Under Secretary to the Government of India Ministry of Finance, Department of Revenue, Jeevandeep Bhawan, Parliament Street, New Delhi
3. Commissioner, Central Excise of Customs, Central Revenue Building, Beerchand Patel Path, Patna-1
4. Additional Commissioner (Personnel and Vigilance) Central Excise Head Quarter), Central Revenue Building, Beerchand Patel Patna, Patna-1
5. Amresh Chandra Sinha S/O Late Biresh Chandra Sinha R/O Village- Phulwariya (Chaudhary Tola), P.O. and P.S.- Phulwaria, Barauni, District- Begusarai.
6. Pawan Kumar Shandilya S/O Late Ram Ratan Sharma R/O Village- Kohrampur, P.S.- Motihani, District- Begusarai.
7. Suresh Kumar Sharma S/O Sri Jagdish Prasad R/O Village- Sarai,

P.S.- Sahpur (Danapur), District- Patna, at present posted as T.A. at Central Excise (Head Quarter Office), Patna, District- Patna

8. Vikash Chandra S/O Late Jagdish Chandra Prasad Ambastha R/O Village- Baghmali, P.O. and P.S.- Hazipur, District- Vaishali, at present posted as T.A. at Central Excise (H), Patna

9. Sheo Shankar Prasad S/O Sri Sheodhar Ram Kr/O Village- Madanpur (Nautan), P.S.- Narawan, District- Sagar, at present posted as T.A. at C. Ex. Division, Muzaffarpur, District- Muzaffarpur

.... Respondents

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Appearance :

(In CWJC No. 14625 of 2012)

For the Petitioners	:	Mr. S.D. Sanjay, Addl. S.G. Mr. Anshay Bahadur Mathur, CGC
For the Respondent nos. 1,2,4,5:		Mr. Gautam Bose, Sr. Advocate Mr. Vikash Jha, Advocate

(In CWJC No. 923 of 2012)

For the Petitioners	:	Mr. Ashok Kumar Choudhary, Advocate Mr. Anil Kumar Tiwary, Advocate
For the Respondent nos. 6,7,9,10:		Mr. Gautam Bose, Sr. Advocate Mr. Ajay Kumar, Advocate Mr. Vikash Jha, Advocate
For the Union of India	:	Mr. S.D. Sanjay, Addl. S.G. Mr. Anshay Bahadur Mathur, CGC

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

And

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

Date: 16-08-2016

These two writ petitions, one by the Union of India and other by Rabindra Kumar Chaubey and others, are directed against order dated 6th July, 2011 passed in O.A. No. 712/1997 passed by the Central Administrative Tribunal, Patna Bench, Patna. Applicants are respondents in both these writ petitions. Their applications were allowed by the Tribunal.

From the order of the Tribunal and after



hearing the parties, it appears that the Central Government in the Department of Central Excise had issued an order with the assent of the President of India dated 17.09.1997, whereby certain additional promotional post, sixty (60) in number, were sanctioned to overcome stagnation in the Patna Division. This was in relation to UDCs and Tax Assistants. A group of persons, who were respondents before the Tribunal, were Stenographers and Draftsmen and were not included by the said communication. Thus, effectively it was the applicants before the Tribunal who were alone to get benefit of this promotion. Subsequently, Government of India issued two clarifications dated 17.11.1997 and 01.12.1997, whereby Stenographers/Draftsmen were also included and considered for promotion to these sixty (60) promotional posts created. This is what brought the applicants to the Tribunal, because, in the combined gradation list that would be prepared for granting promotion, they were likely to be eliminated. The Tribunal held that including the respondents in the applications before it by subsequent two orders was not legal in effect. The Tribunal allowed the Original Application as filed. But, notwithstanding that, in the meantime both sides were

considered and granted promotion to the post of Inspector (Excise). So far as the applicants before the Tribunal are concerned, who are respondents in the writ petitions, all of them, but one, have since retired.

Mr. Gautam Bose, learned senior counsel, appearing for the applicants before the Tribunal, objects to the two writ petitions. He submits that everyone having been granted promotion, virtually, the Central Government has granted relief to both the parties.

That being so, why should the Central Government now challenge the order of the Tribunal or why the respondents before the Tribunal should challenge the order of the Tribunal before this Court.

In reply, Sri Ashok Kumar Choudhary, learned counsel appearing for the private writ petitioners, submitted that there hung a Damocles sword over their heads against their promotion.

In our view, the Central Government has promoted everyone. No one has made a grievance against the promotion. The Central Government, on its side, has taken no action to rescind the promotions. If and when action to the prejudice of the writ petitioners is taken, it would be



open for them to agitate the matter. So far as seniority is concerned, that was never an issue before the Tribunal and facts were also not there. What was being contended before the Tribunal was the avenue of promotions and not consequential seniority.

In that view of the matter, we are not inclined to interfere in the matters and leave sleeping dragons sleep. Both these writ petitions stands disposed of.

(Navaniti Prasad Singh, J.)

(Nilu Agrawal, J.)

Rajeev/N.A.F.R.

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