# IN THE HIGH COURT OF JUDICATURE AT PATNA

**CIVIL REVIEW No.133 of 2019**

**In**

**Civil Writ Jurisdiction Case No.12123 of 2016**

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1. Union Of India through the Secretary (Revenue), Govt. of India, Ministry of Finance, Department of Revenue, New Delhi
2. The Under Secretary to the Govt. of India Ministry of Finance, Department of Revenue, Central Board of Direct Taxes, New Delhi
3. The Chirman Central Board of Direct Taxes, Ministry of Finance, Govt. of India, New Delhi
4. The Director General of Income Tax H.R.D., 2nd Floor, ICADR Building, Plot No. 6, Basant Kunj, Institutional Area, Phase-II, New Delhi
5. The Commissioner of Income Tax Vigilance Central Board of Direct Taxes, Ministry of Finance, Govt. of India, North Block, New Delhi
6. The Chief Commissioner of Income Tax (CCA) Central Revenue Building, Patna-800001, now the Pr. Chief Commissioner of Income-Tax (B and J), Patna

... ... Petitioners

Versus

1. Raman Kumar Son of Sri Nand Kishore Singh, Working as Guard, office of the Chief Commissioner of Income Tax -1, Patna ( Bihar )
2. Sushil Kumar Pandey Son of Sri Parsuram Pandey, Working as Guard, office of the Chief Commissioner of Income Tax -1, Patna ( Bihar )
3. Krishna Rai Son of Sri Indra Deo Rai, Working as Gestetnor Operator, office of the Chief Commissioner of Income Tax -1, Patna ( Bihar )
4. Subash Chandra Jha Son of Late Shiv Shankar Jha, Working as Guard, office of the Chief Commissioner of Income Tax -1, Patna ( Bihar )
5. Harendra Kumar Son of Sri Ram Brichha Mahto, Working as Telephone Operator, office of the Chief Commissioner of Income Tax -1, Patna ( Bihar )
6. Pramod Kumar Sah Son of Sri Suresh Sah, Working as office Work, office of the Chief Commissioner of Income Tax -1, Patna ( Bihar )
7. Nawal Kishore Dubey Son of Late Yadu Nandan Dubey, Working as Telephone Operator, office of the Chief Commissioner of Income Tax -1, Patna ( Bihar )
8. Birendra Kumar Madhukar Son of Sri Ram Dayal Mahto, Working as Farash, office of the Chief Commissioner of Income Tax -1, Patna ( Bihar )
9. Ram Prakash Rai Son of Late Jamadar Rai, Working as Farash, office of the Chief Commissioner of Income Tax -1, Patna ( Bihar )
10. Binay Kumar Rai Son of Sri RamNath Prasad Rai, Working as Farash, office of the Chief Commissioner of Income Tax -1, Patna ( Bihar )
11. Ram Pravesh Mahto Son of Late Iner Mahto, Working as Nigh Guard, office of the Chief Commissioner of Income Tax -1, Patna ( Bihar )

12. MahendraPrasad Son of Late Nagina Prasad, Working as Farash, office of the Chief Commissioner of Income Tax -1, Patna ( Bihar )
13. Ranjit Kumar Pandit Son of Sri Mahendra Pandit, Working as Guest Attendant/Guard, office of the Chief Commissioner of Income Tax-1, Patna ( Bihar )
14. Nand Kumar Pathak Son of Late Deo Pujan Pathak, Working as Driver, office of the Chief Commissioner of Income Tax -1, Patna ( Bihar )
15. Prabha Kumari Daughter of Brij Nandan Sharma, Working as Computer Operator, office of theChief Commissioner of Income Tax -1, Patna ( Bihar )
16. Dharmendra Kumar Son of Sri Jay Kant Bind, Working as Safaiwala, office of the Chief Commissioner of Income Tax -1, Patna ( Bihar )
17. Vijay Kumar No. 1 Son of Late Dineshwar Prasad, Working asMali, office of the Chief Commissioner of Income Tax -1, Patna ( Bihar )
18. Suresh Kumar Singh Son of Late Ram Govind Singh, Working as Guard, office of the Chief Commissioner of Income Tax -1, Patna ( Bihar )
19. Shyama Prasad Dey Son of Late Jitendra Mohan Dey, Working as Farash, office of the Chief Commissioner of Income Tax -1, Patna ( Bihar )
20. Md. Inam Son of Late Ansar Ahmad, Working as Safaiwala, office of the Chief Commissioner of Income Tax -1, Patna ( Bihar )
21. Ajit Nath Kanth Son of Late Raj Narayan Kanth, Working as Computer Operator, office of the Chief Commissioner of Income Tax -1, Patna ( Bihar )

... ... Opposite Parties

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**Appearance :**

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| For the Petitioners | : | Mr. S.D. Sanjay, ASG, with<br>Mr. Kumar Priya Ranjan, CGC |
| For the Opposite Party | : | Mr. |

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**CORAM: HONOURABLE THE CHIEF JUSTICE**
**and**
**HONOURABLE JUSTICE SMT. NILU AGRAWAL**

ORAL ORDER

**(Per: HONOURABLE THE CHIEF JUSTICE)**

2 15-05-2019 Heard Sri S.D. Sanjay, learned Additional Solicitor General for the review petitioners.

The contention raised on the basis of the fact which has been brought through the review application appeared to be such facts which ought to have been brought before the writ Court, but, the applicants appear to have chosen not to file rejoinder affidavit as a result whereof such facts were not in the notice of [illegible] when the writ petition was disposed of.

Learned counsel submits that the respondents have already moved a contempt application before the Central Administrative Tribunal and also before this Court for compliance of the judgment, but, the contention is that on account of non-availability of Group ‘D’ post it is not possible for the applicants to comply with the judgment and it is this fact which has compelled the applicants to file this review application.

The question of entertaining a review application on discovery of new facts does not arise inasmuch as a review is not a re-hearing of the entire matter on disclosure of such fact which otherwise was in the knowledge on the applicant if the vacancies were not existing. It was open to the applicants to bring those facts to the notice of the writ Court which, admittedly, they did not do and are now seeking to press into service through this application. This can not be the scope of review inasmuch as there is no error apparent on the face of record so as to warrant the exercise of review jurisdiction in the present matter. However, in the background of the case, we leave it open to the applicants to take such plea before the contempt Court or before the Tribunal in the contempt proceedings about such facts which may amount to a situation where it may not be possible to exactly comply with the directions, but is is also open to the applicants to proceed to consider [illegible] supernumerary post or otherwise make some adjustment in the event there are no Group ‘D’ posts in existence and we make these observations because we find from the record that even after the change of rules certain engagements have been made about which facts have been brought to the notice of this Court by the respondents in their counter affidavit in paragraphs 12 and 13 filed before the writ Court.

In view what has been stated above, we see no reason to issue notice to the respondent so as to entertain this review application.

This review application accordingly stands disposed of.

**(Amreshwar Pratap Sahi, CJ)**

**( Nilu Agrawal, J)**

Shamshad/-

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