

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.14811 of 2021**

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1. Vinay Kumar Son of Raj Kumar Mahto Driver Grade-II Office of the Chief Commissioner, Central Excise and Service Tax, Central Revenue Building, Birchand Patel Path, Patna- 800001 (Bihar).
  2. Subodh Kumar Choudhary Son of Satya Narayan Choudhary Driver Grade-II Office of the Chief Commissioner, Central Excise and Service Tax, Central Revenue Building, Birchand Patel Path, Patna- 800001 (Bihar).

... .. Petitioner/s

Versus

1. The Union of India Through the Secretary (Revenue), Government of India, Ministry of Finance, Department of Revenue, New Delhi.
2. The Chairman Central Board of Excise and Customs, Ministry of Finance, Government of India, North Block, New Delhi.
3. The Chief Commissioner Central Excise and Service Tax, Central Revenue Building, Birchand Patel Path, Patna- 800001 (Bihar).
4. The Chief Commissioner Central Excise and Service Tax, Ranchi Zone, Central Revenue Building, Birchand Patel Path, Patna- 800001 (Bihar).
5. The Joint Commissioner (CCO) Central Excise and Service Tax, Central Revenue Building, Birchand Patel Path, Patna- 800001 (Bihar).
6. The Commissioner Central Excise and Service Tax, HQ, Central Revenue Building, Birchand Patel Path, Patna- 800001 (Bihar).

... .. Respondent/s

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**Appearance :**

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| For the Petitioner/s | : | Mr. M.P. Dixit, Advocate<br>Mr. S.K. Dixit, Advocate<br>Mr. S.K. Chaubey, Advocate<br>Mrs. Swastika, Advocate |
| For the Respondent/s | : | Mr. Anshay Bahadur Mathur, Advocate                                                                           |

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**CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI**  
**and**  
**HONOURABLE MR. JUSTICE PURNENDU SINGH**  
**ORAL JUDGMENT**  
**(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)**

**Date : 12-12-2022**

Heard learned counsels for the parties.

2. In the instant petition, petitioners have



assailed the order of the Tribunal dated 30.01.2020 passed in O.A. No. 050/00642/2016.

3. Grievance of the petitioners are that they are entitled to promotion to the post of Driver Grade-II w.e.f. 01.04.2013 and they have been given promotion on 24.07.2014. To rectify the date of promotion dated 24.07.2014 for the first time representation was submitted on 09.09.2015 and 07.06.2016 and it was rejected on 22.01.2016 and 16.08.2016 respectively. Petitioners had cause of action on 01.04.2013, the date on which their names were required to be considered for the purpose of promotion to the post of Driver Grade-II. They did not agitate their right at the relevant point of time. Department promoted petitioners on 24.07.2014. Thereafter, they did not immediately approach the authority to rectify the date of promotion from 24.07.2014 to 01.04.2013. On the other hand, they have submitted representations on 09.09.2015 and 07.06.2016. The same were rejected on 22.01.2016 and 16.08.2016 respectively. In this backdrop, petitioners have presented O.A. No. 642 of 2016 and it was rejected on 30.01.2020. On the question of delay in seeking promotion to the post of Driver Grade-II. In other words, cause of action accrued on 01.04.2013 and further cause of



action accrued on 24.07.2014, the date on which petitioners were promoted to the post of Driver Grade-II. They did not agitate their rights immediately having regard to the dates and events.

4. Apex Court in the case of ***P.S. Sadasivaswamy Appellant V. State of T.N.*** reported in ***AIR 1974 SC 2271*** held that if an aggrieved person in respect of promotion and seniority must approach the appropriate forum within a reasonable period of time of six months from the date of cause of action. The same has been reiterated by the Apex Court in the latest decision in the case of In ***Vijay Kumar Kaul and Ors. v. Union of India*** reported in ***(2012) 7 SCC 610***.

5. In the light of the principle laid down by above-mentioned decisions and the fact that petitioners have also not arrayed such of those persons whose rights are likely to be effected. In other words, persons who were promoted during the intervening period from 01.04.2013 to 24.07.2014 have not been arrayed as necessary and proper party. In the event of granting any relief to the petitioners in promoting them to the post of Driver Grade-II w.e.f. 01.04.2013, third party right is likely to be affected. In other words, allowing



the petition would result in administrative chaos in the department.

6. Accordingly, the present writ petition stands dismissed.

**(P. B. Bajanthri, J)**

**( Purnendu Singh, J)**

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| AFR/NAFR          |            |
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