

Rajesh Kumar vs Union Of India & Ors on 18 February, 2022

Author: V. Kameswar Rao

Bench: V. Kameswar Rao

\$~47 to 49

* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 12777/2019

RAJESH KUMAR

..... Pet

Through: Mr. Yomesh Dutt Sharma, Adv.

versus

UNION OF INDIA & ORS

..... Res

Through: Mr. Anil Dabas, Adv. for R1.

Mr. Harpreet Singh, Sr. Sta

Counsel with Mr Akshay Saxe

Adv.

AND

+ W.P.(C) 12865/2019

PAWAN KUMAR

..... Pet

Through: Mr. Rishi Kumar, Adv.

versus

UNION OF INDIA & ORS

..... Res

Through: Mr. Anil Dabas, Adv. for R1.

Mr. Harpreet Singh, Sr. Sta

Counsel with Mr Akshay Saxe

Adv.

AND

+ W.P.(C) 13132/2019, CM No. 53519/2019

MS. PRIYANKA RAI

..... Pet

Through: Mr. Manashwy Jha, Adv.

versus

DIRECTORATE GENERAL OF PERFORMANCE

MANAGEMENT AND ORS.

..... Res

Through: Mr. Harpreet Singh, Sr. Stand

Counsel with Mr Akshay Saxe

Adv.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

% 18.02.2022 These matters are being heard through video-conferencing.

1. These three writ petitions have been filed by the petitioners with the following prayers:-

W.P.(C) 12777/2019 "In view of the above, it is submitted that this Hon'ble Court may graciously be pleased to:

a) pass appropriate writ, directions or order in the nature of mandamus or any other writ, direction or order of the like nature quashing the impugned result/order of Oral Examination dated 25/05/2019 declared/passed by the respondent No.4 on the behalf of the other respondents and issue a writ order of directing the respondents for the issuance of License to petitioner to act as a Custom Broker under Customs Brokers Licensing Regulations, 2013.

b) Pass appropriate writ, directions or order in the nature of mandamus or any other writ, direction or order of the like nature Mandamus directing the respondents to consider the petitioner as par with other selected candidates for the issuance of License to petitioner to act as a Custom Broker under Customs Brokers Licensing Regulations, 2013 in terms of all the benefits arising out of the License.

c) Pass such other and further direction which this Hon'ble Court may deem fit and proper in the facts of the writ petition"

W.P.(C) 12865/2019 "In view of the above, it is submitted that this Hon'ble Court may graciously be pleased to;

a) pass appropriate writ, directions or order in the nature of mandamus or any other writ, direction or order of the like nature quashing the impugned result/order of Oral Examination dated 25/05/2019 declared/passed by the respondent No.4 on the behalf of the other respondents and issue a writ order of directing the respondents for the issuance of License to petitioner to act as a Custom Broker under Customs Brokers Licensing Regulations, 2013;

b) pass appropriate writ, directions or order in the nature of mandamus or any other writ, direction or order of the like nature Mandamus directing the respondents to consider the petitioner as par with other selected candidates for the issuance of License to petitioner to act as a Custom Broker under Customs Brokers Licensing Regulations, 2013 in terms of all the benefits arising out of the License.

c) Pass such other and further direction which this Hon'ble Court may deem fit and proper in the facts of the writ petition."

W.P.(C) 13132/2019 "In view of the facts and circumstances as stated above, it is most respectfully prayed that this Hon'ble Court be pleased to:

1. Issue a writ in the nature of Certiorari or any other appropriate writ or direction quashing the result issued by the respondents, in respect of the petitioner, communicated to the petitioner on 03.10.2019 in reply to the application filed by the petitioner under RTI thereby declaring the petitioner as having failed to clear the oral examination held on 25.05.2019 in her 2nd attempt corresponding to the written examination held on 19.01.2018.

2. Issue a writ in the nature of Mandamus or any other appropriate writ or direction thereby directing the respondents to grant license to the petitioner as per Regulation 7 of the CBLR, 2013, in view of her clearing the written examination and the corresponding oral examination under CBLR, 2013.

3. Pass any such other/further direction as deemed fit by the Hon'ble Court. It is prayed accordingly."

2. In substance, the petitioners are seeking directions be given to the respondents to issue license of Custom Broker under the Custom Broker Licensing Regulation, 2013 (for short CBLR, 2013) to them. As a common issue arises for consideration in these petitions they are being disposed of by this common order.

3. The facts as noted from the petitions are on July 01, 2011, a public notice was released by Government of India through Office of Commissioner of Customs which stated that passing marks for both written and oral test is 50 and that only those candidates who qualify written exam would be called for the oral test.

4. On April 11, 2017, an advertisement was published for issuance of licence to act as Custom Broker under the CBLR, 2013. It is the case of the petitioners that as they qualify the eligibility conditions for being granted the licence as a Custom Broker they had also applied.

5. According to their Counsels, as per CBLR, 2013, the entire examination process was to be conducted in two stages, i.e., written examination and being successful in the same on attaining 50 marks, the candidates are called for oral examination which can be cleared in two attempts by securing minimum passing marks of 50.

6. On December 19, 2017, the petitioners received admit card for written examination to be held on January 19, 2018. It is the common case of the petitioners that all of them have cleared the written examination by securing passing marks, over and above 50. Thereafter, petitioners received admit card for the first attempt of oral examination to be held on July 11, 2018/ July 12, 2018. The result of the oral examination was declared in July, 2018 which revealed that the petitioners did not get 50 marks, resultantly, they could not qualify the first attempt of the oral examination. Pursuant thereto, the CBLR, 2013 was amended by CBLR, 2018, whereby the procedure to clear oral examination in two attempts and the cut of 50 marks for both written and oral underwent a change inasmuch as under the CBLR, 2018 only one attempt has been provided.

7. The petitioners received letter dated April 30, 2019 as admit card for second attempt of oral examination to be held under CBLR, 2018. The petitioners appeared in the oral examination but though achieved 50 marks and above but could not achieve 60 marks.

8. It is the submission of the learned counsel for the petitioners that in the oral examination the petitioners secured 54/51/54 marks respectively. They also submit that the CBLR, 2018 does not prescribe the 60 marks for written and oral examination, but the same was fixed vide a

communication dated May 03, 2019 of Joint Secretary (Customs) Department of Revenue addressed to the Principal Director General, National Academy of Customs, Indirect Taxes & Narcotics (for short 'NACIN').

9. Learned counsel for the petitioners would submit no doubt the letter dated April 30, 2019 prescribed the oral examination to be conducted under Regulation 6 of CBLR, 2018 but it was not mentioned in the letter that the cut-off marks for clearing the oral examination is 60. In fact, it is their endeavour to submit that these marks have been prescribed through an internal communication not addressed to the petitioners herein. The petitioners were all throughout under the belief that the cut-off marks are 50 and the petitioners having achieved, the said marks could not be denied, the Custom Broker licence. They also state, the right of the petitioners to be considered for the second attempt of oral examination, has to be on the same parameters as were prescribed under CBLR, 2013. They state though, the second attempt was given but assessing at 60 marks is untenable more so without putting the changed criteria to the petitioners. They pray that the reliefs as prayed for need to be granted.

10. On the other hand, Mr. Harpreet Singh, learned Senior Standing Counsel appearing for the respondents would submit as per Regulation 6(4) of CBLR, 2013, the examination procedure for grant of Custom Broker license was to be considered in two stages, first was the written examination which was followed by oral examination and further as per Regulation 6(5) of the CBLR, 2013, an applicant who fails to clear the oral examination within two years from the date of declaration of result of the related written examination was treated having failed in the examination. I must state here, Mr. Harpreet Singh did concede to the fact that as the maximum period to clear the oral examination was two years, a candidate can avail two chances of oral examination. He states before 2018, the authority for conducting the written examination as well as the oral examination under Regulation 6 of CBLR, 2013 was vested with the Directorate General of Performance Management, but thereafter, it was vested with NACIN. He submits that new Regulations i.e. CBLR, 2018 were issued under the Customs Act, 1962 which mandates the qualifications have to be met for acquiring the license to function as a broker. The passing of written and oral examination is one such qualification to be met by person seeking license.

11. By adding proviso to Regulation 4(1) of CBLR, 2018 (inserted with effect from February 06, 2019) it was provided that the written examination will be an online and the same was communicated to NACIN through an advertisement issued on February 11, 2019. He also states that the oral examination was held on May, 2019. In addition to 517 candidates who appeared in the interview held in March, 2019, there were 116 candidates who appeared in the interview having qualified written examination held in 2018 under Regulation 6 of the CBLR, 2013. These 116 candidates had appeared in the oral examination in 2018 but failed in that attempt. It is his submission that these 116 candidates who had cleared their written examination in 2018 under CBLR, 2013 were given an opportunity to appear in the oral examination conducted in May, 2019 under the saving provisions contained in Section 159A(c) of the Customs Act, 1962 read with CBLR, 2018.

12. It is also stated that the relief sought by the petitioners under CBLR, 2013 is untenable as the same has already been superseded by CBLR, 2018 under the provision of Section 146 read with Section 151(a) of the Customs Act. Further, CBLR, 2018 are retrospective in nature. Moreover, he stated, the attempt of the petitioner to contend that they are covered by CBLR, 2013 is a misplaced argument as CBLR, 2018 was enforced at the time of oral examination and it is precisely for this reason the respondent has clearly communicated to the petitioners while calling them for the oral examination vide communication dated April 30, 2019 that the oral examination is being conducted under the CBLR, 2018. He also submits that in terms of communication dated May 03, 2019 the requirement of 50 marks in oral examination already, stood amended. He seeks the dismissal of the writ petitions.

13. Having heard the learned counsel for the parties. At the outset, I may state to decide the issue which falls for consideration in this petition it is necessary to highlight the provisions of CBLR, 2013 and CBLR, 2018, more specifically regulations 5 and 6 which I reproduced as under:-

CBLR, 2013 "xxxx xxxx xxxx

5. Conditions to be fulfilled by the applicants.- The applicant for a licence to act as a Customs Broker in a Customs Station, shall prove to the satisfaction of the Commissioner of Customs, that:-

(a) he is a citizen of India;

(b) he is a person of sound mind;

(c) he is not adjudicated as insolvent;

(d) he is neither been convicted by a competent court for an offence nor any criminal proceedings is pending against him in any court of law; and

(e) he has not been penalised for any offence under the Act, the Central Excise Act, 1944 and the Finance Act, 1994.

(f) an individual applicant or in case the applicant is a firm or company its partner or director or an authorised employee who may handle the Customs work shall:

(i) be a graduate from a recognised University, and

(ii) possess a professional degree such as Masters or equivalent degree in Accounting, Finance or Management, CA/MBA/LLB or Diploma in Customs Clearance work from any Institutes or University recognised by the Government or is having at least two years experience in transacting Customs Broker work as G-Card holder;

(g) he is a retired Group A officer from the Indian Customs and Central Excise Services having a minimum of five years experience in Group „A service;

(h) the applicant has financial viability as evidenced by a certificate issued by a Scheduled Bank or such other proof acceptable to the Commissioner or Customs in terms of possession of assets of value of not less than five lakhs rupees;

Provided that for the purpose of his satisfaction, the Commissioner of Customs may make enquiries as may be deemed fit.

6. Examination of the applicant.-

(1) An applicant, who satisfies the requirement of regulation 5, shall be required to appear for a written as well as oral examination conducted by the DGICCE.

Provided that an applicant who has already passed the examination referred to in regulation 9 of the Customs House Agents Licensing Regulation, 1984 and regulation 8 of the Customs House Agents Licensing Regulation, 2004 shall not be required to appear for any further examination.

(2) The written examination shall be conducted on specified dates in month of January of each year for which intimation shall be sent individually to applicants in advance before the date of examination and the result of the said examination shall be declared by end May each year.

(3) The applicant who is declared successful in the written examination shall be called for an oral examination on specified dates in month of June of each year, the result of which shall be declared in the month of July of each year.

(4) The applicant shall be required to clear written examination as well as oral examination. (5) An applicant who fails to clear the oral examination within two years from date of declaration of result of the related written examination, shall be treated as having failed in the examination.

(6) An applicant shall be allowed a maximum period of seven years from the date of original application within which he shall pass both written and oral examinations and no further extension shall be granted.

(7) The examination may include questions on the following:

(a) preparation of various kinds of bills of entry, bills of export, shipping bills, and other clearance documents;

(b) arrival entry and clearance of vessels;

(c) tariff classification and rates of duty;

- (d) determination of value of imported and export goods;
 - (e) conversion of currency;
 - (f) nature and description of documents to be filed with various kinds of bills of entry, shipping bills and other clearance documents;
 - (g) procedure for assessment and payment of duty including refund of duty paid;
 - (h) examination of goods at Customs stations;
 - (i) prohibitions on import and export;
 - (j) bonding procedure and clearance from bond;
 - (k) re-importation and conditions for free re-entry;
 - (l) drawback and export promotion schemes including Special Economic Zone scheme;
 - (m) offences under the Act;
 - (n) provisions of the allied Acts including the Indian Explosive Act, 1884 (4 of 1884), Destructive Insects and Pests Act 1914 (2 of 1914), Dangerous Drugs Act, 1930 (2 of 1930), Drugs and Cosmetics Act, 1940 (23 of 1940), Central Excise Act, 1944 (1 of 1944), Copy Right Act, 1957 (14 of 1957), Trade and Merchandise Marks Act 1958 (43 of 1958), Arms Act 1959 (54 of 1959), Patents Act, 1970 (39 of 1970), Narcotics Drugs and Psychotropic Substances Act, 1985 (61 of 1985), Foreign Trade (Development and Regulations) Act, 1992 (22 of 1992), Foreign Exchange Management Act, 1999 (42 of 1999), Design Act, 2000 (16 of 2000) and Food Safety and Standard Act, 2006 (No. 34 of 2006) in so far as they are relevant to clearance of goods through customs;
 - (o) provisions of Prevention of Corruption Act, 1988 (49 of 1998);
 - (p) procedure for appeal and revision applications under the Act; and
 - (q) on line filing of electronic bills of entry and shipping bills vide the Indian Customs and Central Excise Electronic Commerce or Electronic data interchange gateway (ICEGATE) and Indian Customs Electronic data Interchange System (ICES).
- (7) The Commissioner of Customs shall satisfy himself that the individual applicant or in cases where applicant is a firm or company its partner or Director or authorised

employees who may be engaged for handling the customs work shall possess satisfactory knowledge of English and the local language of the Customs Station.

Provided that in case of a person deputed to work extensively In the docks, knowledge of English shall not be compulsory. Knowledge of Hindi shall be considered as desirable qualification.

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CBLR, 2018

"XXXX

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5. Conditions to be fulfilled by the applicants.--(1) The applicant for a license to act as a Customs Broker in a Customs Station, shall before applying to the Principal Commissioner of Customs or Commissioner of Customs, meet the following conditions that: --

(a) he is a citizen of India;

(b) he is a person of sound mind;

(c) he is not adjudicated as insolvent;

(d) he holds an Aadhaar number;

(e) he holds a valid PAN card;

(f) he has not been penalised for any offence under the Act, the Central Excise Act, 1944 (1 of 1944), the Finance Act, 1994(32 of 1994), the Central Goods and Services Act, 2017 (12 of 2017) and Integrated Goods and Services Tax Act, 2017 (13 of 2017);

(g) he has neither been convicted by a competent court for an offence nor any criminal proceeding is pending against him in any court of law;

(h) an individual applicant or in case the applicant is a firm, its partner or in the case of a company, its director or an authorised employee who may handle the Customs work shall--

(i) be a graduate from a recognized University; and

(ii) possess a professional degree such as Masters or equivalent degree in Accounting, Finance or Management, CA/CS/MBA/LLM/ACMA/FCMA or Diploma in Customs Clearance work from any Institutes or University recognised by the Government or is having at least two years experience in transacting Customs Broker work as G-Card holder;

(i)the applicant has financial viability as evidenced by a certificate issued by a Scheduled Bank or such other proof acceptable to the Principal Commissioner of Customs or Commissioner of Customs, as the case may be, in terms of possession of assets of value of not less than five lakhs

rupees.

(2) A retired Group A officer from the Indian Revenue Service(Customs and Central Excise)having a minimum of five years experience in Group 'A' post shall also be eligible to apply for a license to act as a Customs Broker provided he satisfies the conditions specified at (a), (b), (c), (d), (e), (f), (g) and (i)of sub-regulation (1) above.

(3) The Principal Commissioner or Commissioner of Customs, as the case may be, may for the purpose of this regulation, make such enquiries to verify the eligibility of the applicant as he may deem fit before forwarding the application to 1[National Academy of Customs, Indirect Taxes and Narcotics (NACIN)].

6. Examination of the applicant. --(1) An applicant, who satisfies the requirements of regulation 5, shall be required to appear for a written 4[***] as well as oral examination conducted by the 1[National Academy of Customs, Indirect Taxes and Narcotics (NACIN)]:

Provided that an applicant who has already passed the examination referred to in regulation 9 of the Custom House Agents Licensing Regulation, 1984 or regulation 8 of the Custom House Agents Licensing Regulation, 2004 or regulation 6 of the Customs Brokers Licensing Regulations, 2013 shall not be required to appear for any further examination.

[(2) The online written examination shall be conducted by the National Academy of Customs, Indirect Taxes and Narcotics (NACIN) in the first quarter of each calendar year for which intimation shall be sent individually to applicants in advance before the date of examination and the result of the said examination shall be declared preferably within one month of the date of examination.

(3) The applicant who is declared successful in the written examination shall be called for an oral examination on specified dates in the second quarter of the same calendar year, the result of which shall be declared in the month of July of the same calendar year.] (4)The applicant shall be required to clear both the written examination as well as corresponding oral examination. (5) An attempt at the written exam shall be deemed to be an attempt and notwithstanding the disqualification/cancellation of application, the fact of appearance of the applicant at the examination will count as an attempt. (6) An applicant shall be allowed a maximum of six attempts to clear the examination.

(7) The examination may include questions on the following:

(a) preparation of various kinds of bills of entry, bills of export, shipping bills, and other clearance documents;

(b) arrival entry and clearance of vessels;

- (c) tariff classification and rates of duty;
- (d) determination of value of imported and export goods;
- (e) conversion of currency;
- (f) nature and description of documents to be filed with various kinds of bills of entry, shipping bills and other clearance documents;
- (g) procedure for assessment and payment of duty including refund of duty paid;
- (h) examination of goods at Customs Stations;
- (i) prohibitions on import and export;
- (j) bonding procedure and clearance from bond;
- (k) re-importation and conditions for free re-entry;
- (l) drawback and export promotion schemes including the Special Economic Zone scheme;
- (m) offences under the Act;
- (n) provisions of the allied Acts including the Central Goods and Services Act, 2017 (12 of 2017) and section 5 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), the Indian Explosives Act, 1884 (4 of 1884), the Destructive Insects and Pests Act 1914 (2 of 1914), the Dangerous Drugs Act, 1930 (2 of 1930), the Drugs and Cosmetics Act, 1940 (23 of 1940), the Central Excise Act, 1944 (1 of 1944), the Copy Right Act, 1957 (14 of 1957), the Trade and Merchandise Marks Act 1958 (43 of 1958), the Arms Act 1959 (54 of 1959), the Patents Act, 1970 (39 of 1970), the Narcotics Drugs and Psychotropic Substances Act, 1985 (61 of 1985), the Environment (Protection) Act, 1986 (29 of 1986), the Foreign Trade (Development and Regulations) Act, 1992 (22 of 1992), the Foreign Exchange Management Act, 1999 (42 of 1999), the Design Act, 2000 (16 of 2000) and the Food Safety and Standard Act, 2006 (No. 34 of 2006) and other laws for the time being in force applicable to EXIM trade and the rules and regulations made under these Acts in so far as they are relevant to clearance of goods through Customs;
- (o) provisions of the Prevention of Corruption Act, 1988 (49 of 1998);
- (p) procedure for appeal and revision applications under the Act; and

(q) online filing of electronic bills of entry and shipping bills vide the Indian Customs and Central Excise Electronic Commerce or Electronic data interchange gateway (ICEGATE) and Indian Customs Electronic data Interchange System (ICES).

(r) knowledge of regulations, rules, notifications, etc. under the Customs Act and other Allied Acts. (8) The Principal Commissioner of Customs or Commissioner of Customs shall satisfy himself that the individual applicant or in cases where applicant is a firm or company, its partner or Director or authorised employees who may be engaged for handling the customs work shall possess satisfactory knowledge of English and the local language of the Customs Station:

Provided that in case of a person deputed to work extensively in the docks, knowledge of English shall not be compulsory and knowledge of Hindi shall be considered as desirable qualification."

XXXX XXXX XXXX"

14. A perusal of the CBLR, 2013 and 2018, it is clear that nowhere the said regulations prescribe cut-off marks. Case of the petitioner is primarily by relying upon a public notice dated July 01, 2011 wherein (at page 22, W.P.(C) 13132/2019), paragraph 1 reads as under:-

"The maximum marks for both written and oral test would be hundred and minimum pass marks would be 50 in each test and the candidate would be required to pass separately written and oral test in the said examination. Only those candidates who qualify the written test would be called for the oral test."

15. It is on the basis of this public notice they have been making selection of Custom Brokers that is a candidate has to achieve 50 marks both in written and the oral examination. This criteria continued till May 03, 2019 when in a communication dated May 03, 2019 sent by the Joint Secretary (Customs), Department of Revenue to the Principal Director General of NACIN, the contents of which are reproduced as under, the marks were prescribed as 60:-

"Please refer to your office letter F.No.II (15)76/NACIN/ CBLE/2018/1952 dated 16.04.2019 on the subject cited above along with which a copy of Board letter No. 502/15/85-Cus.VI dated 17.07.1915 was attached.

2. It may be recalled that vide Board's letter of even no. dated 27.03.2019, Board's approval was conveyed for conducting oral examination in line with practice previously followed.

3. Matter has been examined. In respect of oral examination under Regulation 6 of CBLR 2018, it is conveyed that Board has approved the proposal for 60% qualifying marks out of maximum 100 marks.

4. With respect to the composition of members in the Interview Board, your kind attention is drawn to your office letter referred in subject forwarding instructions regarding oral examination and composition of Interview panel to zonal Chief Commissioners. It is noticed that the composition in Interview panel is a departure from earlier followed practice. Board has so far not received any proposal from NACIN regarding such change in composition of interview Board wherein one Pr. Commissioner / Commissioner from the Zone is replaced by the Pr. ADG/ADG of the jurisdictional NACIN campus. You are requested to send your proposal with the justification for such change."

16. There is no dispute that the call letters were issued to the petitioners on April 30, 2019 asking them to appear in the oral examination (on May 23, 2018/May 25, 2018) before the communication dated May 03, 2019 was sent to the Principal Director General, NACIN. On the date of April 30, 2019 when such communication was sent there was no decision that the cut of marks for oral examination was 60 and not 50.

17. That apart, the communication dated May 03, 2019 was not even sent to the petitioners. The learned counsel for the petitioners are justified in stating that even if the communication dated April 30, 2019 stated that the oral examination has to be held under CBLR, 2018 but it still did not state that the cut-off marks for oral examination are 50. Otherwise, the petitioners would have contested the prescription of 60 marks for those candidates who had participated in the selection process, which was initiated under the CBLR, 2013.

18. It cannot be disputed the selection process with regard to the petitioner had started under CBLR, 2013 and it is also conceded by Mr. Harpreet Singh that under the CBLR, 2013, a candidate is entitled to appear in oral examination, on two occasions within a span of two years. The petitioners herein did appear in the oral examination, once but had not qualified. The second chance of oral examination in which the petitioners were eligible / entitled to appear, cannot be on different parameters. Otherwise, there would be anomaly, inasmuch as for written examination they were assessed at 50 marks, but for oral examination at 60 marks. Further, the right of consideration on same parameters could not have been taken away.

19. That apart, it is not the case of the respondents that before the petitioners appeared in the oral examination held on May 23/25, 2019 the petitioners were put to notice that their consideration for oral examination would be on the basis of 60 marks. In the absence of such a notice to the petitioners the criteria could not have been changed. Further, it is not the case of the respondents that petitioners have not achieved 50 marks in the oral examination held on May 23, 2019/May 25, 2019, hence, the petitioners having qualified the written examination on the basis of 50 marks, they have to be assessed at 50 marks in the oral examination, otherwise, it shall have the effect of changing the criteria midway, which is impermissible.

20. Mr. Harpreet Singh has relied upon judgment in the case of Om Prakash Shukla v. Akhilesh Kumar Shukla, 1986 Supp SCC 285; 1986 SCC (L&S) 644, to contend that the petitioners shall not be entitled to relief.

21. I am unable to agree that the said submission and the judgment relied upon by Mr. Harpreet Singh is clearly distinguishable on the facts.

22. In view of the above discussion, the writ petitions are allowed and disposed of. The respondents are directed to issue license to the petitioners as Custom Brokers.

23. Pending applications have become infructuous.

24. No costs.

V. KAMESWAR RAO, J FEBRUARY 18, 2022/ds