

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH**

OA No. 691 of 2014

Present: Hon'ble Mr. Gokul Chandra Pati, Member (A)
Hon'ble Mr. Swarup Kumar Mishra, Member (J)

1. Ashwini Kumar Majhi, aged about 48 years, S/o Late Gokulananda Majhi, Village-Manigaon, PO-Kapilabhata, PS-Bangomunda, Dist.-Bolangir, Superintendent, Central Excise & Customs Service Tax Range-II, Unit-IV, Bhubaneswar.
2. Survendu Mohanty, aged about 46 years, S/o Pramod Kumar Mohanty, C.R.Building, Bhubaneswar, Superintendent, Central Excise & Customs Service Tax Range-1, Bhubaneswar.

.....Applicant.

VERSUS

1. Union of India represented by its Secretary, Ministry of Finance and Company Affairs, Department of Revenue, North Block, New Delhi – 110001.
2. The Chairman, Central Board of Excise and Customs, North Block, New Delhi – 110001.
3. The Chief Commissioner, Central Excise Customs & Service Tax, Bhubaneswar Zone, C.R.Building, Bhubaneswar-7.

.....Respondents.

For the applicant : Mr.D.K.Mohanty, counsel

For the respondents: Mr.A.Pradhan, counsel

Heard & reserved on : 9.1.2020 Order on : 04.02.2020

O R D E R

Per Mr.Gokul Chandra Pati, Member (A)

The applicants, two in number by filing this OA under section 19 of the Administrative Tribunals Act, 1985 have prayed for the following reliefs :-

- (i) To quash the order dated 6.10.2010 and to direct the Respondents to grant them the pay scale of Rs.8000-275-13500/- in superintendent grade w.e.f. 01.01.1996 and pay scale of Rs.10,000-325-15200/- after 2nd financial upgradation under ACP w.e.f. 09.08.1999 and consequential pay scale and grade pay on the basis of the 6th CPC.
- (ii) To direct the Respondents to grant the applicants GP of Rs.5400/- in PB 3 w.e.f. 01.01.2006 and GP of Rs.6600/- in PB 3 w.e.f. 01.01.2006 on completion of four years service and the GP of Rs.7600/- in PB 3 w.e.f. 1.1.2006 on grant of 2nd financial upgradation under ACP scheme.
- (iii) To declare that parity in pay scale is required to be removed from the date when such disparity arose and direction be given to the Respondents to effect appropriate higher scale of pay to the Supdt. of Central Excise and Customs retrospectively i.e. from 1.1.1986.
- (iv) To direct the Respondents to grant the applicants all consequential service and financial benefits retrospectively.
- (v) To pass any other order/orders as deemed fit and proper.”

2. The applicants are working as Superintendents under the respondents and claim the benefit of pay scale and salary allowed to their counterpart in other department and organizations like CBI/IB. They are claiming the pay scale of Rs. 8000-13,500/- w.e.f. 1.1.1996 and the scale of Rs. 10000-15,200/- after grant of the upgradation under the ACP Scheme w.e.f. 9.8.1999 with all consequential benefits. They have also prayed for quashing of the order dated 6.10.2010 (Annexure-A/10 of the OA) by which the claim was rejected by Government of India after due consideration as per the direction of the Tribunal in OA No. 181/2006.

3. It is stated in para 4.11 of the OA that the order of rejection has been challenged in OA No. 624/2011. The ground urged in the OA is that while the respondents have allowed higher pay scale and Grade Pay for the counterpart officials of the applicants in Enforcement Directorate and CBI/IB, but the same was not allowed to the applicants, which amounted to discrimination.

4. Heard learned counsel for the applicants and the respondents. Learned counsel for the respondents filed a copy of the order dated 5.12.2017 passed by this Tribunal in OA No. 624/2011 which was dismissed and submitted that the facts in both the OAs being similar, the order dated 5.12.2017 will squarely cover the present OA also.

5. It is seen from the order dated 5.12.2017, the OA No. 624/2011 was filed by the All India Association of Central Excise Gazetted Executive Officers, Bhubaneswar Unit. The said Association was also an applicant in OA No. 181/2006 which was disposed of vide order dated 25.1.2010 (Annexure-A/9) of this Tribunal directing the respondents to consider the pending representation in this regard. Accordingly, the respondents passed the order dated 6.10.2010 (A/10) rejecting the said representation. The order dated 6.10.2010 was challenged in OA No. 624/2011 and also in the present OA, in which both the applicants are Superintendents and have raised the similar grounds as in OA No. 624/2011. Factually both the OA No. 624/2011 and OA No. 691/2014 are similar, challenging the same order dated 6.10.2010, for which, the order dated 5.12.2017 of this Tribunal passed in OA No. 624/2011 will also cover the present OA.

6. In order dated 5.12.2017, this Tribunal after considering various judgments of different Benches of the Tribunal on similar issue and discussing the principle laid down by Hon'ble Apex Court in the case of State of West Bengal vs. Subash Kumar Chatterjee & Ors [(2011) 1 SCC (L&S) 785] has come to the following conclusion as under:-

“15. Taking the above facts and case laws into consideration, we are of the view that it is for the Government to decide about the relative merits of the demands raised by various employees and their Associations and to take a conscious and reasoned decision on the scale of pay to be adopted for various employees, parity between various categories of employees and the dates from which the benefit of pay fixation is to be given. In view of the above, we hold that the order passed by the CBEC dated 9.2.2010 has considered the various aspects of the demand raised by the applicants and in the background of the history of the recommendations of different Expert Bodies, has rightly come to the conclusion that the demand raised by the applicants for retrospective implementation of parity in pay scale on par with Inspectors of CBI/IB is unreasonable and is likely to set up a wrong precedent. We, therefore do not see any reason to interfere with the impugned order dated 9.2.2010.

16. The OA is accordingly dismissed as devoid of merit. No order as to costs.”

7. Applying the order dated 5.12.2017 of the Tribunal in OA No. 624/2011, the present OA is also liable to be dismissed and it is accordingly dismissed. There will be no order as to costs.

(SWARUP KUMAR MISHRA)
MEMBER (J)

(GOKUL CHANDRA PATI)
MEMBER (A)

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