

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

OA/020/1121/2019

HYDERABAD, this the 20th day of December, 2019

Hon'ble Mr. B.V. Sudhakar, Admn. Member



Ch. Suresh Babu, S/o. Ch. Raghaviah (Group-B),
Aged 56 years, Occ: supdt. Central Tax & Customs,
O/o. Deputy Commissioner of Central Tax,
Kakinada Audit Circle,
Rajahmundry.

... Applicant

(By advocate: Mr. N. Vijay)

Vs.

1. The Union of India , Ministry of Finance, Department of Revenue,
North Block, New Delhi Represented by its Secretary.
2. Central Board of Customs and Central Excise/ Central Board of Indirect
Taxes and Customs, North Block, New Delhi, Rep. by its Chairman
3. The Chief Commissioner, Customs, Central Tax, Central Excise & Service
Tax, Basheerbagh, Hyderabad.
4. The Principal Commissioner, Customs, Central Tax, Central Excise &
Service Tax, Hyderabad GST Commissionerate (Cadre Controlling
Authority), GST Bhavan, Hyderabad.

... Respondents

(By advocate: Mr. N. Parameswar Reddy,
Sr. PC to CG)

ORDER (ORAL)

Hon'ble Mr. B.V. Sudhakar, Admn. Member



Heard Mr. N. Vijay, learned counsel for the applicant and Sri N. Parameswara Reddy, learned counsel for the respondents.

2. The applicant was appointed as Inspector and was granted ACP in the scale of Rs. 7500-12000/- . As per the Government of India Resolution and CCS(RP) Rules, 2008 he is entitled for Non-Functional Grade pay of Rs.5400/- upon completion of regular service of 04 years in the Grade Pay of Rs.4800/- (pre-revised 7500-12000 scale). It is submitted that the applicant has been granted Grade Pay of Rs.4800/- as per the Resolution Clause(iv) with effect from the date mentioned against his name.

3. Respondent No.2, however, issued proceedings dated 16.09.2009 with the approval of Department of Expenditure and Implementation whereunder at Clause (iv), it is observed that Non-Functional Grade Pay will not be granted to such of those Group-B officers who have got Grade Pay of Rs.4800/- on upgradation under the ACP Scheme as contrary to the Government Resolution and CCS(Revised pay) Rules,2008.

4. Therefore, the applicant filed the present OA to declare the action of the respondents in not granting Grade Pay of Rs.5400/- from the date of completion of regular service of 4 years in the Grade Pay of Rs.4,800/- (pre revised 7500-12000) as contrary to the CCS (Revised Pay Rules), 2008 and also to the judgment of Madras High Court in W.P. No.13225 of 2010 dated 21.10.2010 as confirmed by the Hon'ble Supreme Court in Civil Appeal

No. 8883 of 2011 dated 10.10.2017 and consequently direct the respondents to forthwith pay Grade Pay of Rs.5400/- to the applicant with effect from the date of completion of regular service of 4 years in the Grade Pay of Rs.4800/- (pre-revised 7500-12000).



5. The same issue was the subject matter of challenge before the Madras High Court in W.P. No.13225 of 2010. The Madras High Court allowed the Writ Petition by order dated 06.09.2010, holding that the impugned executive instructions are contrary to the Government of India resolution and the CCS (Revised) Pay Rules, 2008 and directed the applicants therein to be granted Grade Pay of Rs.5,400/- from the date of completion of regular service of 4 years in the Grade Pay of Rs.4800/-. The said case carried in appeal to the Hon'ble Supreme Court vide SLP(C) No. 15627 of 2011 by the respondents and the Hon'ble Supreme Court dismissed the Civil Appeal, confirming the order passed by the Madras High Court. The Review Petition (Civil) No. 2512 of 2018 in Civil Appeal No. 8883 of 2011 filed by the respondents was also dismissed by the Hon'ble Supreme Court. The Tribunal also allowed OA 1051/2010 filed by the employees of Central Excise Department questioning the very same proceedings issued by the 2nd respondent dated 16.09.2009.

6. The issue has, therefore, been finally adjudicated and no longer res integra. As the Review Petition No. 2512 of 2018 was dismissed by the Hon'ble Supreme Court, the applicant is entitled for the relief prayed for in the present OA.

7. Consequently the proceedings issued by the respondents vide F.No. A-26017/98/2008-Ad.II.A dated 16.09.2009 are set aside. The respondents are directed to grant Grade Pay of Rs.5400/- to the applicant with effect from the date of completion of regular service of 4 years in the Grade Pay of Rs.4800/-.



8. The OA is disposed of accordingly. There shall be no order as to costs.

(B.V. SUDHAKAR)
ADMN. MEMBER

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