

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

Original Application No.21/204/2020

Hyderabad, this the 28th day of February, 2020



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

- 1 D. Pavan Kumar, S/o Late Shri D. Munayya (Group B)
Age 48 years, Occ: Superintendent, O/o. Hqrs Customs
Commissionerate, Hyderabad Customs, Hyderabad.
- 2 S. TrinadhaSwamy, S/o Late Shri S. Suryanarayan (Group B)
Age 56 years, Occ: Sr. P.S,
O/o. Principal Commissioner of Customs,
Hyderabad Customs CommiOSSionerate.
- 3 H.V.S. Sastry, Late Shri H.V.Sastry, (Group B)
Age 53 years, Occ: Superintendent, O/o. Audit-II Commissionerate.
- 4 K. Nagalakshmi, D/o Late Shri K. Sessaiah, (Group B),
Age 52 years Occ: Superintendent,
O/o. Hyderabad Customs Commissionerate, Hyderabad.
- 5 G. Sam Sudhakar, S/o Gabriel Prasada Rao (Group B),
Age 65 years, Occ: Superintendent (Rtd),
O/o. Rajiv Gandhi International, Airport, Hyderabad.
- 6 A.V.V. Ranjan, S/o A. Trivikrama Rao, (Group B)
Age 64 years, Occ: Superintendent (Rtd),
O/o. Hyderabad-II Central Excise & Service Tax,
Commissionerate, Hyderabad .
- 7 T. Naga Mahesh, S/o T. Ramachandra Reddy (Group B)
Age 52 years, Occ: Superintendent, O/o. RGIA Hyderabad.
- 8 KandulaSreenivasa Reddy, S/o K. Gopal Reddy (Group B)
Age 52 years, Occ: Superintendent, O/o. CST Kurnool.
- 9 K. Narendar Kumar, S/o K. Anjaiah (Group B),
Age 50 years, Occ: Superintendent,
O/o. Nirmal Range, Nirmal.
- 10 K. Yugandhar, S/o Someswara Rao (Group B)
Age 58 years, Occ: Superintendent,
O/o. Secunderabad GST Commissionerate.



- 11 K.D.V.S.N. Srinivas Kumar, S/o K. Gopala Krishna Murthy (Group B)
Age 51 years, Occ: Superintendent,
O/o. CGST, Vishakapatnam South Division,
Vishakapatnam.
- 12 Y.P.V. Rao, S/o Y. Satyam (Group B),
Age 63 years, Occ: Superintendent (Rtd),
O/o. Rajhundry Central Excise Division, Rajahmundry.
- 13 Y. Srinivas, S/o Y. Marenn, (Group B),
Age 45 years, Occ: Superintendent,
O/o. Hyderabad Customs, Hyderabad.
- 14 P. Madan Mohan S/o Late Shri Babulal (Group B)
Age 56 years, Occ: Superintendent,
O/o. Kakinada Customs, Kakinada, Andhra Pradesh.
- 15 T. Rajasekhara Rao S/o T. Suryanarayana Rao, (Group B)
Age 53 years, Occ: Superintendent,
O/o. Tribunal, Hqrs, Hyderabad GST.
- 16 V. Vajra Prasad, S/o V. Subba Rao, (Group B),
Age 48 years, Occ: Superintendent (Rtd),
O/o. GST Division, Nellore 524 003.
- 17 B. Meetunaik, S/o B. Tagore Naik (Group B)
Age 45 years, Occu: Superintendent, O/o. Audit, Hyderabad.
- 18 V. Viswanadham, S/o Late V.V. Satyanarayana
Age 50 Years, Occ: Superintendent of Central Tax,
O/o. Audit-II Commissionerate, Hyderabad.
- 19 B. Annapurna D/o Sri B.T. Krishna Murty (Group B),
Age 51 years, Occ: Superintendent,
O/o. Appeals-I, Commissionerate, Hyderabad.
- 20 P.V. Subba Rao, S/o P. Ramkotiah (Group B),
Age 67 years Occ: Superintendent (Rtd),
O/o. Hyderabad Customs, Hyderabad.
- 21 V. Pradeep Kumar, S/o V. Mohan Rao (Group B),
Age 56 years, Occ: Superintendent,
O/o. Hyderabad Customs, Hyderabad.
22. Maskani Ramesh, S/o M. Sathyanaryana (Group B)
Age 41 years Occ: Superintendent GST,
O/o. DGCI, Warangal.

23. DhulipalaGopichand, S/o D.S. Stayanaryana (Group B)
Age 44 years Occ: Superintendent,
O/o. GST, DRI, Vijayawada.
24. ParupalliAnand Rao, S/o P. Bhadrachalam (Group B)
Age 46 years Occ: Superintendent, GST,
O/o. Vishakapatnam GST Copmmissionerate.
25. Laxman Singh Prahalad, S/o Late Shri L.V. Laxman Singh (Group B)
Age 46 years Occ: Enforcement Officer,
O/o. Enforcement Directorate, Hyderabad Zonal Office,
Hyderabad.

.. Applicants.

(By Advocate: Mr. N. Vijay)

AND

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. D. Lakshmi Narayana Rao, Addl. CGSC)

ORAL ORDER
{As per B.V. Sudhakar, Member (Admn.)}

2. The OA has been filed against the action of the respondents in not granting Grade Pay of Rs.5400/- w.e.f. the date of completion of regular service of 4 years in the Grade Pay of Rs.4800/-.



3. Brief facts are that the applicants were granted Grade Pay of Rs.4800/- on various dates on account of financial upgradation under MACP Scheme while working as Inspectors and were due for higher Grade Pay of Rs.5400/- after completion of 4 years of service as per the CCS (Revised Pay) Rules, 2008. However, they were not granted the higher grade pay on the ground that the applicants would be entitled for higher grade pay only when they regularly work as Superintendents for 4 years, but not as Inspectors. The applicants referred to clause (x) of the VI CPC Resolution, which deals with Group 'B', which, the applicants claim, is in their favour. Besides, Schedule I of CCS (RP) Rules, 2008 as mentioned in Rule 3 & 4, Pay band & Grade Pay on the pay scale as applicable for every post/ grade shall be specified. Part C Section II provides revised pay structure for the post in the Department of Revenue as follows:

“Department of Revenue

| Sl. No. | Post | Present Scale | Revised Pay Scale | Corresponding Pay Band & Grade Pay | | Para No. of the Report |
|---------|--|---------------|----------------------------|------------------------------------|------|------------------------|
| | | | | | | |
| 9. | Income Tax Officers/ Superintendent Appraisers etc. (Customs and Central Excise) | 7500-12000 | 7500-12000 | PB-2 | 4800 | 7.15.17 |
| | | | 8000-13500 (after 4 years) | PB-2 | 5400 | |

Despite being approached, non-grant of the requested grade has led to the filing of the OA.

4. The contentions of the applicant are that an analysis of the relevant provisions referred would make it clear that a Group B officer in PB-2 with a Grade Pay of Rs.4800/- is entitled for Grade Pay of Rs.5400/- on non-functional basis after 4 years of regular service. The enhancement of grade pay is not dependent on the post, but on regular service of 4 years in Grade Pay of Rs.4800/- in PB-2. The Central Board of Excise & Customs has clarified that the 4 year period is to be counted w.e.f. the date on which the officer is placed in the pay scale of Rs.7500-12000 (pre-revised). In regard to the revision of pay scales, all Inspectors in the Central Excise and Customs continued to be under Group B. As per SO 946(E), dt. 06.04.2009, the posts under CCS (CCA) Rules have been re-classified and even as per re-classification, Central Civil Posts carrying Grade Pay of Rs.5400, Rs.4800, Rs.4600, and Rs.4200/- in the scale of pay of Rs.9300 to 34,800 in PB-2 come under Group B. The post of Inspector even under the latest classification of posts comes under Group B. Respondent No.2 issued proceedings dt. 16.09.2009 with the approval of Department of Expenditure and Implementation where under 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 contrary to the Government Resolution and CCS (Revised Pay) Rules, 2008. The proceedings issued by the respondent No. dt. 16.09.2009 were challenged before the Hon'ble Madras High Court in WP No. 13225 of 2010 wherein it was held that the impugned executive instructions are



contrary to the Government of India Resolution and CCS (Revised Pay) Rules, 2008, and directed that the applicant therein be granted grade pay of Rs.5400/- from the date of completion of 4 years in the Grade Pay of Rs.4800/-. The said case was carried in appeal to the Hon'ble Supreme Court in SLP No. 15627 of 2011 by the respondents and the same was dismissed on 10.10.2017. This Tribunal has also allowed similar relief in OA No. 1051/2010 filed by the employees of the Central Excise Dept questioning the very same proceedings. Many other OAs seeking similar relief were allowed by the Tribunal and the respondents have also implemented the judgments. The present applicants are similarly placed and the relief sought has to be granted on similar lines.



5. Heard both the counsel and perused the pleadings.

6. The issue in question has already been dealt with by this Tribunal in OA No. 1051/2010 and the relief sought has been granted. Therefore, the case on hand is fully covered. The judgment of the Hon'ble Madras High Court in WP No. 13225 of 2010 has attained finality as the SLP filed against the same was rejected on 10.10.2017. Executive instructions issued by the 2nd respondent on 16.09.2009 being contrary to the relevant Government of India Resolution and CCS (RP) Rules, 2008, the same do not hold good as observed by the superior judicial forums. Based on the directions contained in the judgment of the Hon'ble Madras High Court cited supra, this Tribunal extended similar relief in OA No. 699/2019 vide order dt. 15.10.2019, wherein it was held as under:

“(III) Hence, in view of the above, respondents are directed to dispose of the representations made by the applicants keeping in view the verdict of this Tribunal in OA 1238/2018 by issuing a speaking

and reasoned order within a period of 8 weeks from the date of receipt of this order.”

7. In view of the above, respondents are directed to consider the OA as a representation of the applicants and based on the judgment of the Hon’ble Madras High Court as well as the Orders of this Tribunal in the OAs cited supra, issue a speaking and reasoned order within a period of 8 weeks from the date of receipt of copy of this order, in regard to the relief sought.



In view of the above, the OA is disposed of, at the admission stage.

No order as to costs.

(B.V. SUDHAKAR)
MEMBER (ADMN.)

/evr/