

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

OA/020/467/2019

HYDERABAD, this the 20th day of December, 2019

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



1. N.S.Nagesh Babu, S/o.N.R.Subba Rao,
Aged 54 years, Occ: Superintendent,
O/o.Nellore GST Division, Nellore,
Nellore District, A.P.
2. Ch.Chandra Sekhar, S/o.Ch.Subramanyam,
Aged 51 years, Occ: Superintendent,
O/o.Nellore GST Division, Nellore,
Nellore District, A.P.
3. A.R.Hari Priya D/o.G.V.Prabhakar Rao,
Aged 43 years, Occ: Superintendent,
O/o.Nellore GST Division, Nellore,
Nellore District, A.P.
4. Syed Ikramulla Sha, S/o.late Syed Karimulla Sha,,
Aged 62 years, Occ: Superintendent (Retd),
Custom House, O/o.Krishnapatnam, ,
Nellore District, A.P.
5. Konda Ramesh Kumar, S/o.Konda Laxmaiah,
Aged 50 years, Occ: Inspector of Central Tax,
O/o.Saroornagar Division,
Rangareddy Commissionerate, Hyderabad.
6. Borra Gopalaiah, S/o.Borra Rathaiah,
Aged 52 years, Occ: Superintendent,
O/o. Chief Commissioner of Central Tax,
Port Area, Vizag, A.P.
7. K.Dasaradhi Gupta, S/o,Sree Rama Chandra Murthy,
Aged : 63 years, Occ: Superintendent Retd.
R/o.Flat No.301, Blue Berry Apartments,
Opp. Road to Andhra Bank ATM,
Road No.3, Sector 6 3, Lotus Land Mark,
Kedareswarapet, Vijayawada, A.P.
8. A.Bharata Lakshmi, W/o.A.Madhusudhana Rao,
Aged 61 years, Occ: Superintendent of Central Tax (Retd)
O/o.Chief Commissioner of Central Tax,
Port Area, Vizag, A.P.



9. Chunduri Venkata Badari Narayana, S/o.Ch.Panakala Rao,
Aged 48 years, Occ: Superintendent of Customs Tax,
O/o.Visakhapatnam.
10. Gade Srinivas Kumar, S/o.G.Rangaiah,
Aged 48 years, Occ: Superintendent of Customs (Preventive),
O/o.Principal Commissioner of Customs,
Custom House, Port Area, Visakhapatnam 533310.
11. Bellam Venkata Raja Sekhar, S/o.B.,Ganeswara Rao,
Aged 48 years, Occ: Superintendent of Customs (Preventive)
O/o.Principal Commissioner of Customs
Custom House, Port Area, Visakhapatnam 533 101.
12. M.Suresh Mani, S/o.M.Subha Mani,
Aged 46 years, Occ: Superintendent,
O/o.Regional Unit, DGGI, Vijayawada,
13. P.Vinod Kumar, S/o.P.Samuel John,
Aged 52 years, Occ: Superintendent, Audi, Guntur Circle,
O/o.Audit Commissionerate, Visakhapatnam.
14. Mikkilineni Srinivasa S/o.M.Venkata Ratnam,
Aged : 52 years, Occ: Superintendent, Audit, Guntur Circle,
O/o.Audit Comissionerate, Visakhapatnam.
15. T.V.G.K.Murthy, S/o. T.Narsimham,
Aged : 51 years, Occ: Superintendent, Audit, Guntur Circle,
O/o.Audit Commisionerate, Visakhapatnam,
16. M.Chandrasekhara Sastry,
S/o.M.Rama Chandra Murthy,
Aged : 54 years, Occ: Superintendent, Audit, Guntur Circle,
O/o.Audit Commissionerate, Visakhapatnam.
17. Md.Sadiq Ali, S/o.Mohammed Mahaboob Ali,
Aged : 50 years, Occ: Superintendent,
O/o.Guntur CGST Commissionerate, Guntur.
18. Inavolu Venkata Ramana Rao, S/o.I.Seetha Rama Rao,
Aged 55 years, Occ: Superintendent, Audit, Guntur Circle,
O/o.Audit Commissionerate, Visakhapatnam.
19. A.Revanath, S/o.A.Devadas,
Aged 59 years, Occ: Superintendent, Audit, Guntur Circle,
O/o.Audit Commissionerate, Visakhapatnam.
20. Pagadala Kanakadurga, D/o.P.Venkateswarlu,
Aged 45 years, Occ: Superintendent, Eluru CGST Range,
O/o,Guntur CGST Commissionerate, Guntur.

21. Bezawada Anitha, D/o.B.Bhaskara Rao,
Aged 47 years, Occ: Superintendent,
O/o.Guntur CGST Commissionerate Guntur.

21 Alapati Srinivas S/o.A.Prabhakara Rao,
Aged 54 years, Occ: Superintendent,
O/o.Guntur CGST Commissionerate, Guntur.



(By Advocate: Mr.N.Vijay)

vs Applicants

Vs

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

...Respondents

(By Advocate: Mr.A. Vijaya Bhaskar Babu)

O R D E R (ORAL)

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



Heard Mr. N. Vijay, learned counsel for the applicants and Mr. A. Vijaya Bhaskar Babu, learned Standing Counsel for the respondents.

2. The applicants were appointed as Inspectors and were granted ACP in the scale of Rs. 7500-12000/- on the dates mentioned against their names in Annexure-I. As per the Government of India Resolution and CCS(RP) Rules, 2008 they are 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 all the applicants have been granted Grade Pay of Rs.4800/- as per the Resolution Clause(iv) with effect from the dates mentioned against each of them.

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, all these applicants 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 applicants 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 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 applicants are 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 applicants 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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