

**Central Administrative Tribunal
Hyderabad Bench**

OA No.021/402/2019

Hyderabad, this the 12th day of February, 2020

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



1. P.Venkata Surya Prakash, Group B
S/o Late P. Sriram Murti,
Aged about 58 years
Occ: Assistant Director
O/o NACIN, Hyderabad
R/o No.6-3-595/42,
Anand Nagar Colony
Hyderabad – 4.
2. K. Manik Rao
S/o Shri K. Prabhakar Rao
Aged about 58 years,
Occ: Assistant Director
O/o NACIN, Hyderabad.
3. Smt. V.V. Prasanna Kumari,
D/o Late V. Anjaneyulu
Aged about 53 years,
Occ: Assistant Director
O/o NACIN, Hyderabad.
4. Sajid Ghori, S/o Ahmed Mohiuddin Ghori
Aged about 54 years,
Occ: Assistant Director
O/o The Dte. General of Audit (GST),
HZU, Hyderabad.
5. P. Shyam, S/o Late P. Sriramachandra Murti
Aged about 58 years,
Occ: Assistant Commissioner
O/o Chief Commissioner of Customs and Central Tax
Hyderabad Zone, Hyderabad.

6. V. Phanindra Chary,
S/o Late V. Purushotham Acharya
Aged about 58 years,
Occ: Assistant Commissioner of Customs
O/o The Principal Commissioner of Customs,
Hyderabad.
7. P. Sasidhar, S/o Late Ramana Rao
Aged about 58 years,
Occ: Assistant Commissioner of Central Tax
O/o The Principal Commissioner of Central Tax
Hyderabad GST Commissionerate.
8. M. Raghunath Reddy,
S/o Late M. Venkat Reddy
Aged about 59 years
Occ: Assistant Commissioner of Central Tax
O/o Audit-II Commissionerate, Hyderabad.
9. K. Balaji
S/o K.N.Sundaram
Aged about 58 years
Occ: Assistant Commissioner of Central Tax
O/o Medchal Commissionerate, Hyderabad.
10. Arun Deshpande
S/o Shahurao Deshpande
Aged about 58 years
Occ: Assistant Commissioner of Customs and Specified Officer
O/o Visakhapatnam Special Economic Zone, Hyderabad.
11. V. Timothy Paul, S/o Late V.Vincent Paul
Aged about 57 years, Occ: Assistant Commissioner, Dte.
O/o General of Vigilance, Hyderabad Zonal Unit.
12. B. Sai Veerendher, S/o Late B. Kishan Rao
Aged about 58 years, Occ: Assistant Commissioner of Central Tax
O/o Audit II Commissionerate, Hyderabad.
13. Mir Anwar Mohiuddin, S/o Late Mir Ahmed Mohiuddin
Aged about 56 years, Occ: Assistant Commissioner of Central Tax
O/o CESTAT, Hyderabad.

14. Venkatesh, S/o Late A. Shamanna
Aged about 58 years, Occ: Assistant Commissioner of Central Tax
O/o The Commissioner of Central Tax (Appeals), Guntur.
15. K. Murali Krishna, S/o K. Satyanarayana
Aged about 57 years, Occ: Assistant Commissioner of Central Tax
O/o Visakhapatnam Commissionerate, Visakhapatnam.
16. T. Srinivasan, S/o B. Triambakam
Aged 56 years, Occ: Assistant Commissioner of Central Tax
O/o Guntur Commissionerate, Guntur.
17. V. Prakash Babu, S/o late V. Prasada Rao
Aged about 56 years, Occ: Assistant Commissioner of Central Tax
O/o Visakhapatnam Commissionerate, Visakhapatnam.
18. S. Khaja Hussain, S/o S.A.Hussain
Aged about 56 years, Occ: Assistant Commissioner of Central Tax
O/o Tirupati Commissionerate, Tirupati.
19. C.N.Anantha Narayan, S/o Late C.S. Narayan
Aged about 53 years, Occ: Assistant Director, NACIN,
Visakhapatnam, Address: 30-12-25/303, S.R.Enclave
Ranga Street, Daba Gardens, Visakhapatnam.
20. G. Sarveswara Rao, S/o Venkateswarlu
Aged about 58 years, Occ: Assistant Commissioner of Customs
& Specified Officer, O/o Kakinada, SEZ Limited, Kakinada.
21. P.V.Ravanajee Rao, S/o Late P. Krishna
Aged about 70 years,
Occ: Retd. Supdt. of Central Excise & Customs, Hyderabad.
R/o Plot No.22, H.No.5-9-64/22, Mahalakshimpuri (Excise Colony)
Yapral, J.J.Nagar Post, Secunderabad.
22. V. Soma Sundara Sharma, S/o Late Sri V. Guru Murthy
Aged about 69 years, Occ: Retd. Supdt. of Central Excise &
Customs, Hyderabad.
R/o H.No.29-1433/4, Plot No.276,
East Kakateyanagar, Neredmet, Secunderabad. .. Applicants

(By Advocate: Shri 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 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 (Cadre Controlling Authority)
GST Bhavan, Hyderabad. ... Respondent(s)

(By Advocate: Mr. N. Parameshwar Reddy, Sr. PC for CG)

ORDER (Oral)

2. The OA has been filed, challenging the action of the respondents in not granting Grade Pay of Rs.5400/- to the applicants.
3. Brief facts of the case are that the applicants are working as Assistant Commissioners except Applicants No.21 and 22, who retired as Superintendents in Central Excise and Customs Department. As per the Government of India Resolution and CS(Revised Pay) Rules, 2008,

they are entitled for Non-Functional Grade Pay of Rs.5400/- upon completion of regular service of 4 years in the Grade Pay of Rs.4800/- as per Resolution Clause (iv). However, CBEC, issued orders vide letter dated 16.09.2009, ordering that non-functional higher Grade Pay of Rs.5400/- shall not be granted to Group B officers who have got Grade Pay of Rs.4,800/- on upgradation under the ACP Scheme. This letter was found to be contrary to the Government of India Resolution and CCS (Revised Pay) Rules, 2008 by the Hon'ble Madras High Court in Writ Petition No.13225/2010, dated 21.10.2010. When the Hon'ble Madras High Court Judgment was challenged, in Civil Appeal No.8883/2011, on 10.10.2017 the Hon'ble Supreme Court dismissed the same. Applicants are aggrieved that despite the judicial pronouncements/dicta, respondents have not granted the relief sought. Applicants claim that representations made have not yielded any favourable results. Hence, the OA.

4. The contentions of the applicants are that the Government of India Resolution and the 6th CPC recommendations are in their favour. Besides, Hon'ble High Court of Madras has delivered a verdict, which supports their contention(s). Besides, CCS (Revised Pay) Rules, 2008, also support their cause. This Tribunal in OA No.1238 of 2018, has granted relief to similarly placed applicants on 21.12.2018.

5. Although sufficient time has been granted to the respondents to file reply, they have not chosen to do so till date.

6. Heard both the counsel and perused the pleadings on record.

7. (I) At the very outset, the learned counsel for the applicants has stated that the case is fully covered by the Judgment of the Tribunal in OA 1126/2018, dated 16.11.2018, wherein it was observed as under:

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

8. 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/-"

(II) The applicants in the present OA are similarly placed, therefore, the relief sought has to be granted as per the observation of the Hon'ble Supreme Court in ***Sub Inspector Roop Lal & Anr. v. Lt. Governor through Chief Secretary, Delhi & Others, (2000) 1 SCC 644***, as the order is binding. The relevant observations of the said case are extracted below:

"12. Precedents which enunciate rules of law form the foundation of administration of justice under our system. This is a fundamental principle which every Presiding Officer of a Judicial Forum ought to know, for consistency in interpretation of law alone can lead to public confidence in our judicial system. This Court has laid down time and again precedent law must be followed by all concerned; deviation from the same should be only on a procedure known to law. A subordinate court is bounded by the enunciation of law made by the

superior courts. A coordinate Bench of a Court cannot pronounce judgment contrary to declaration of law made by another Bench. It can only refer it to a larger Bench if it disagrees with the earlier pronouncement. This Court in the case of **Tribhuvandas Purshottamdas Thakar v. Ratilal Motilal Patel, AIR 1968 SC 372=[1968] 1 SCR 455** while dealing with a case in which a Judge of the High Court had failed to follow the earlier judgment of a larger Bench of the same court observed thus:

*"The judgment of the Full Bench of the Gujarat High Court was binding upon Raju, J. If the learned Judge was of the view that the decision of Bhagwati, J., in Pinjare Karimbhai's case and of Macleod, C.J., in Haridas `s case did not lay down the correct Law or rule of practice, it was open to him to recommend to the Chief Justice that the question be considered by a larger Bench. Judicial decorum, propriety and discipline required that he should not ignore it. Our system of administration of justice aims at certainty in the law and that can be achieved only if Judges do not ignore decisions by Courts of coordinate authority or of superior authority. Gajendragadkar, C.J. observed in **Lala Shri Bhagwan and Anr, v. Shri Ram Chand and Anr.**: 'It is hardly necessary to emphasise that considerations of judicial propriety and decorum require that if a learned single Judge hearing a matter is inclined to take the view that the earlier decisions of the High Court, whether of a Division Bench or of a single Judge, need to be re-considered, he should not embark upon that enquiry sitting as a single Judge, but should refer the matter to a Division Bench, or, in a proper case, place the relevant papers before the Chief Justice to enable him to constitute a larger Bench to examine the question. That is the proper and traditional way to deal with such matters and it is founded on healthy principles of judicial decorum and propriety'."*

Thus, there being a binding precedent laid down by the Coordinate Bench of this Tribunal it has to be adhered to as per the directions of the Hon'ble Supreme Court cited supra.

(III) Representations of the applicants dated 7.02.2019 and 15.02.2019 are on record. Learned counsel for the applicants submitted that other applicants have also submitted representations on similar lines.

(IV) 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 1126/2018 by issuing a speaking and reasoned order within a period of 8 weeks from the date of receipt of this order.

V) With the above directions, the OA is disposed of with no order as to costs.

(B. V. Sudhakar)
Member (A)

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