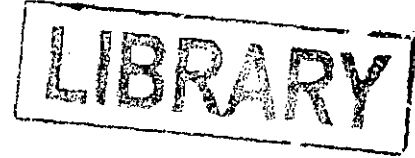


**CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH, KOLKATA**



O.A/350/114/2020
M.A/350/64/2020

Date of Order: 07.02.2020

**Coram: Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Dr. (Ms.) Nandita Chatterjee, Administrative Member**

1. **Debratan Malakar**, son of Late Narayan Chandra Malakar, aged about 53 years working as Superintendent of CGST & CX in the office of the Commissioner of CGST & CX, Kolkata Audit -I Commissionerate, GST Bhawan, 180, Santipally, Rajdanga Main Road, Kolkata - 700107 and residing at B-10/83, Kalyani, District - Nadia, Pin 741235.
2. **Dhiman Sarkar**, son of Late Panchanan Sarkar, working as Superintendent of CGST & CX in the office of the Commissioner of CGST & CX, Kolkata Appeal -I Commissionerate, GST Bhawan, 180, Santipally, Rajdanga Main Road, Kolkata - 700107 and residing at A-11/13A, Kalyani, District - Nadia, Pin 741235.
3. **Samir Kumar Saha**, son of Late Madhai Chandra Saha, working as Superintendent of CGST & CX in the office of the Commissioner of CGST & CX, Kolkata Appeal -I Commissionerate, GST Bhawan, 180, Santipally, Rajdanga Main Road, Kolkata - 700107 and residing at Baruipur, Puratan Thana (near Chirantani Sangha), Post office and Police Station - Baruipur, District - South 24 parganas, Kolkata - 700144.
4. **Alok Ganguly**, son of Shri Amal Ranjan Ganguly, working as Superintendent of CGST & CX in the office of the Commissioner of CGST & CX, Kolkata Audit -I Commissionerate, GST Bhawan, 180, Santipally, Rajdanga Main Road, Kolkata - 700107 and residing at F/59, New Life Housing, Gayeshpur, Post office - Kalyani, District - Nadia, Pin 741235.
5. **Tarup Kanti Ghosh**, son of Late Niranjana Ghosh, working as Superintendent of CGST & CX in the office of the Commissioner of CGST & CX, Kolkata Appeal -I Commissionerate, GST Bhawan, 180, Santipally, Rajdanga Main Road, Kolkata - 700107 and residing at 386, Dakshinroy Pally, Ward No. 1, Baruipur, Municipality, Post office and Police Station - Baruipur, Kolkata 700144.

--Applicants.

Versus

1. Union of India, service through the Secretary, Department of Revenue, Ministry of Finance, North Block, New Delhi - 110001.
2. The Chairman, Central Board of Indirect Taxes & Customs, Department of Revenue, Ministry of Finance, Government of India, having its office at North Block, New Delhi - 110001,
3. The Principal Chief Commissioner of CGST & CX, Kolkata Zone, GST Bhawan, 180, Santipally, Rajdanga Main Road, Kolkata - 700107.
4. The Principal Commissioner of Commissioner of CGST & CX, Kolkata Zone, GST Bhawan, 180, Santipally, Rajdanga Main Road, Kolkata - 700107.

--Respondents



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For The Applicant(s): Mr. P. C. Das, counsel
Ms. T. Maity, counsel
For The Respondent(s): Mr. A. Roy, counsel

ORDER (ORAL)

Per: Ms. Bidisha Banerjee, Member (J):

Heard Id. counsel for both sides.

2. M.A350/64/2020 for joint prosecution is allowed. The applicants are allowed to pursue the remedy jointly.

3. This O.A has been preferred to seek the following relief:



"(a) Leave may be granted to the applicants to file this application jointly under Rule 4(5)(a) of the Central Administrative Tribunal (Procedure) Rules, 1987 as the applicants have a common grievance;

b) To quash and/or set aside the impugned office letter dated 25th September, 2018 issued by the Under-Secretary to the Government of India, Ministry of Finance, Department of Revenue, Central Board of Indirect Taxes & Customs whereby the said authority directed that the persons concerned those who are not party in the proceeding in any court matter, they cannot be given the benefit of Grade Pay of Rs. 5400/- which is a discrimination and violation of Article 14 and 17 of the Constitution of India being Annexure A-12 of this ' original application;

c) To quash and/or set aside the impugned-office, letter dated 16th November, 2018 issued by the office of the Principal Commissioner, Central GST and Central Excise, Kolkata North Commissionerate communicated that they are unable to process re-fixation of pay due to unavailability of the proper order or guidelines from the GBIC/DoPT, New Delhi or the competent authority being Annexure A-15 of this original application which is a misleading statement as because by way of gazette notification dated 29th August, 2008 and the Circulars dated 11.2.2009 and 21.11.2008 being Annexure A-2 and A3, and A-4 of this original application, the higher authority had made it clear that if the officer completes 4 years on a date after 01.01.2006, he will be given non-functional upgradation from such date on which he completes 4 years in the pay scale of Rs. 7500-12000/- (pre-revised).

d) To quash and/or set aside the impugned office letter dated 25th February, 2019 issued by the Director, Government of India, Ministry of Finance, Department of Revenue, Central Board of Indirect Taxes & Customs communicated to Zonal Principal Commissioner of Central Tax, Hyderabad Commissionerate with request to implement the common orders of Hon'ble Tribunal on the same issue dated 27.8.2018 in and 16.11.2018 in respect of the petitioners only those who were the party in the proceeding, which is highly discriminatory and in violation of Article 14 and 17 of the Constitution of India being Annexure A-16 of this original application which is hostile discrimination of Article 14 and 16 of the Constitution of India.

(e) To quash and/or set aside the impugned office order dated 22.2.2019 issued by the Commissioner of CGST and CX, Siliguri Commissionerate by which the claim of the applicants has been rejected by stating that the benefit of NFG of Grade Pay of Rs. 5400/- to the officers who has completed 4 years continuous service in the Grade Pay of Rs. 4800/- may not be allowed until final direction/clarification received from the Board (or Cadre Control Authority) in this matter being Annexure A-19 of this original application.

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f) To pass an appropriate order directing upon the respondent authority to give the benefit of Grade pay of Rs. 5400/- in favour of the present applicants on non-functional basis with effect from the date on completion of continuous service of 4 years in Grade Pay of Rs. 4800/- in PB-2 in terms of the gazette notification dated 29th August, 2008 and the circulars dated 21st November, 2008 issued by the Ministry of Finance, Department of Revenue, Central Board of Excise & Customs along with all consequential benefits in the light of the direction rendered by the Learned Tribunals, Hon'ble High Courts and Hon'ble Supreme Court in Judgement and order dated 4.11.2015 passed by the coordinate bench of the Central Administrative Tribunal, Chandigarh Bench in O.A. No. 060/01044/2014 and O.A. No. 060/00018/2015 and the judgment and order dated 8th December, 2016 passed by the Division Bench of the Hon'ble High Court of Kerala at Emakulam in OP (CAT) No. 276 of 2010 (Z) and the order passed by the Learned Central Administrative Tribunal, Allahabad Bench dated 6th December, 2018 in O.A. No. 1318 of 2018 and the judgment and order passed by the Division Bench of the Hon'ble High Court of Judicature at Madras dated 06.09.2010 in W.P. No. 13225 of 2010 whereby the Hon'ble High Court of Judicature at Madras also taken the same view by directing the respondents to extend the benefit of Grade pay of Rs. 5400/- in favour of the similarly circumstanced employees and the judgment and order dated 10.10.2017 passed by the Hon'ble Supreme Court in Civil Appeal No. 8883 of 2011 by which the Hon'ble Apex Court also upheld the decision rendered by the Hon'ble High Court of Judicature at Madras in WP No. 13225 of 2010 and the order passed by the Division Bench of the Hon'ble High Court in Writ Petition No. 39218 of 2012 and the same view has been taken by the Hon'ble High Court as per the direction of the Hon'ble Supreme Court and the order passed by the Learned Central Administrative Tribunal, Allahabad Bench dated 6th December, 2018 in O.A. No. 1318 of 2018 whereby the learned Central Administrative Tribunal, Allahabad Bench also passed an order by directing the respondents to extend the benefit of judgment in favour of the similarly circumstanced persons who approached before that Tribunal, within a specific time;

g) To declare that all the applicants are the similarly circumstanced persons vis-a-vis to the employees those who are parties in the proceeding in the various proceedings before the Hon'ble Tribunal as well as High Courts and Hon'ble Supreme Court and are entitled to get the Grade Pay of Rs. 5400/- those who are Group-B Officers of Department of Posts, Revenue etc., will be granted Grade pay of Rs. 5400/- in PB-2 on non-functional basis after 4 years of regular service in the grade pay of Rs. 4800/- in PB-2. Therefore, denial of the same benefit of the present applicants based on the clarifications issued by the Government of India was contrary to the gazette notification dated 29th August, 2008 and the Circular dated 21.11.2008 being Annexure A-2 and A-3 of this original application. Despite the fact that all the applicants have made representations individually before the concerned respondents by relying upon the various orders passed by the Learned Central Administrative Tribunals, High Courts and Hon'ble Supreme Court which has not been considered by the same respondent which is a clear violation of Article 14 and 16 of the Constitution of India and which to be considered in the light of the implementation order in the case of Mr. Shiladitya Maitra and others vide office order No. 286/2019 dated 06.12.2019 being Annexure A-21 of this original application."

4. At hearing, Ld. Counsel for the applicants seeks liberty to file a comprehensive representation to the competent respondent authorities annexing a copy of the judgement in Shiladitya Maitra & Ors (OA350/358/2019) and the implementation of the said judgment to support his claim.



5. Ld. counsel for the respondents submits that the representation shall be preferred before the Respondent No. 3, who shall forward it to the Respondent No. 2 for appropriate consideration.

6. Accordingly, the O.A is disposed with liberty to the applicants to file comprehensive representation to the Respondent No. 3 or any other competent respondent authority annexing a copy of the judgement supra and the implementation of such order and seek appropriate consideration within a period of 2 weeks from the date of receipt of a copy of this order.

In the event such representation is preferred by the applicants, the competent respondent authority shall consider the same in the light of the judgment (supra) and pass appropriate orders within a period of 3 months from the date of such representation. In case the applicant deserves the relief as prayed for, the same shall be accorded within that period.

7. It is made clear that we have not entered into the merit of the matter and therefore all the points to be raised in the representation shall be open for consideration.

8. The present OA accordingly stands disposed of. No costs.

(Nandita Chatterjee)
Member (A)

(Bidisha Banerjee)
Member (J)

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