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BEFORE THE CENTRAL ADMINISTRATION TRIBUNAL
KOLKATA BENCH

O.A. No 359/1513 of 2018

In the matter of:

An application under Section 19
of the Central Administrative
Tribunal Act, 1985;

And

In the matter of:

1. Shri Shishir Kumar
Sarkar, son of Shri Abinash
Chandra Sarkar, aged about 47
years, working as Inspector of
CGST & CX, residing at 46/1,
Charakdanga Road, "Royal"
Complex, Flat No. 402, Block-A,
Post Office and Police Station -
Uttarpara, District - Hooghly,
Pin - 712258.

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2. Shri Vishwajit Sarkar, son of Shri Sachin Chandra Sarkar, aged about 48 years, working as Inspector of CGST & CX, residing at Village - North Bagna, Post Office - Gaighata, District - North 24 Parganas, Pin - 743243.

3. Shri Sajal Kanti Gain, son of Nikunja Behari Gain, aged about 44 years, working Inspector of CGST & CX, residing at Village and Post Office - Habra, Prafulla Nagar, District - North 24 Parganas, Pin - 743268.

4. Shri Debashis Shil, son of Late Kanai Lal Shil, aged about 48 years, working Inspector of CGST & CX, residing at Indra Bhavan, Flat No.2Q, 35, Arya Vidyalaya Road, Lalgate, Post

Office - Haltu, Kolkata -
700078.

5. Shri Abhijit Roy, son of
Shri Amal Kumar Roy, aged
about 48 years, working
Inspector of CGST & CX,
residing at 35, Achuth Anata Pai
Road, 'Indra Puri', Post Office-
Belghoria, Kolkata-700056

6. Shri Jayadrata Biswas,
son of Late Satish Chandra
Biswas, aged about 45 years,
working Inspector of CGST &
CX, residing at Garia Station, B-
1, Sreenagar, Panchasagar,
Kolkata - 700094.

7. Shri Prasanta Das, son of
Late Pinaki Ranjan Das, aged
about 47 years, working
Superintendent of CGST & CX,
residing at A-45, Lake View

Park, Bonhooghly, Kolkata -
700108.

... Applicants

-Versus-

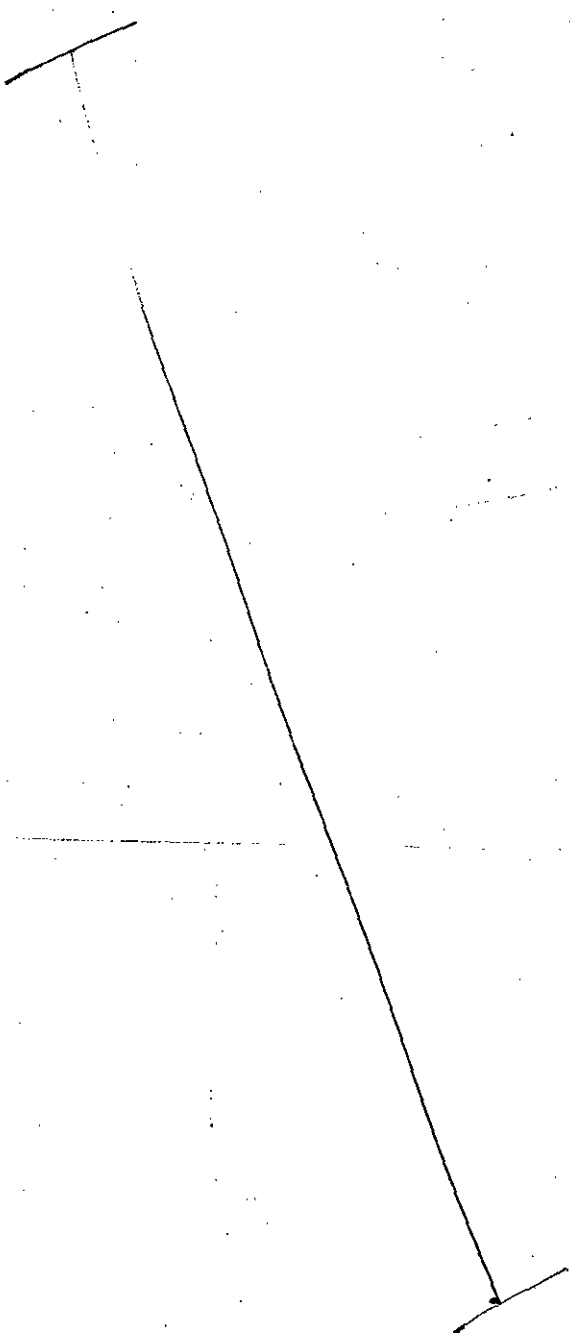
1. Union of India, service
through the Secretary to the
Government of India, Ministry of
Finance, Department of
Revenue, North Block, New
Delhi- 110001.

2. The Chairman, Central
Board of Excise & Customs
(Presently Central Board of
Indirect Taxes and Customs),
North Block, New Delhi-
110001.

3. The Principal Chief
Commissioner of CGST & CX,
Kolkata, 180, Shanti Pally,
Kolkata- 700107.

4. Commissioner of CGST &
CX, Howrah Commissionerate,
M. S. Building, Custom House,
15/1, Strand Road, Kolkata-
700001.

... Respondents



**CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH, KOLKATA**



O.A/350/1513/2018
MA 746/2018

Date of Order: 03.03.2020

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

Shishir Kumar Sarkar & Ors.....Applicants

Vrs.

Union of India & Ors.Respondents

For The Applicant(s): Mr. A.K.Manna, Counsel

For The Respondent(s): Ms. D.Nag, Counsel

ORDER (ORAL)

Bidisha Banerjee, Member (J):

Heard Ld. Counsels for both the parties.

2. M.A. No. 746/2018 preferred by the applicants under Rule 4(5)(a) of CAT (Procedure) Rules, 1987 to seek joint prosecution of this case is allowed subject to filing of required Postal Order/D.D. for each of the applicants.

3. Applicants, who are working as Inspector of CGST & CX, have preferred this O.A. to seek the following reliefs:

"a) An order issuing direction upon the respondents to grant Grade Pay of Rs. 5,400/- (PB-2) to the applicants herein on completion of 4 years in the pay scale of Rs. 7,500-12,000/- (Pre-revised) as per Judgment dated 06.09.2010 of Hon'ble High Court of Madras, as upheld by Hon'ble Supreme Court vide its order dated 10.10.2017 and that dated 23.08.2018 with all consequential benefits including arrears of pay.

b) An order quashing and setting aside the clarification dated 11.02.2009 and directing the respondents to grant Grade Pay of Rs. 5,400/- (PB-2) in the pay-scale of Rs. 7,500-12,000/- (Pre-revised) to the applicants No. 1 to 6 from the date of

completion of 4 years of service in the Grade Pay of Rs. 4,800/- in PB-2 i.e. w.e.f 30.04.2017 and to the Applicant No. 7 w.e.f. 01.10.2016.

c) An order holding directing the respondent authorities to provide production of relevant documents.

d) Any other order or further order/orders as this Hon'ble Tribunal may deem fit and proper."



4. The case of the applicants in nutshell is that they were initially appointed as UDC and further promoted as Inspector (Non-Gazetted Group-B) w.e.f. 30.04.2003. Subsequently, MACP benefit was granted to them and they were placed in pay scale of Rs. 7500-12000/- with Grade Pay of Rs. 4800/-. The claim of the applicants is that they are entitled to Non-Functional Upgradation to the Grade Pay of Rs. 5,400/- on completion of four years of service in the grade of Inspector as per Govt. of India's Resolution dated 29.08.2008, as clarified in Board's Letter dated 21.11.2008. Applicants further rely upon the decision of the Hon'ble Madras High Court in W.P.No. 13225/2010, which has been upheld by the Hon'ble Apex Court in Civil Appeal No. 8883/2011.

5. Respondents have filed their counter contesting the prayer made in the O.A. The main thrust of their argument is that, since the applicants have been placed in the pay scale of Rs. 7500-12000/- with Grade Pay of Rs. 4800/- by virtue of financial upgradation under MACP Scheme and not on regular promotion, they are not entitled to the Non-Functional Upgradation.

6. Applicants have filed rejoinder reiterating the stand taken in the O.A. They have submitted that the benefit of Non-Functional Upgradation has already been extended to similarly situated employees by virtue of the court orders. Accordingly, they pray to consider their case in the light of the decisions of the different Courts.

7. Having heard the contentions of both the sides, without entering into the merits of the matter, we dispose of this O.A. with direction to the competent authority to look into the grievance of the applicants, as projected in their representations under Annexure-A/9, in the light of the decisions cited by the applicant and pass a reasoned and speaking order within a period of three months from the date of receipt of a copy of this order. In the event it is established that they have a genuine claim, appropriate order shall be issued within that period.

8. The O.A. is disposed of accordingly with no order as to costs.

(Nandita Chatterjee)
Member (A)

(Bidisha Banerjee)
Member (J)

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