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CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION No.80/2020

Date of Decision: 08.01.2020

CORAM: DR. BHAGWAN SAHAI, MEMBER (A)
RAVINDER KAUR, MEMBER (J)

1. All India Association of Central Excise
Gazetted Executive Officers (AIACEGEO)
Through: General Secretary, Shri
Sanjay Kumar-AIACEGEO, Pune
Unit, Pune, having address: 1st
Floor, "C" Wing, ICE House, Sassoon
Road, Pune
411001, State of
Maharashtra.

2. Waghchaure Sampat Rajaram,
(Son of Waghchaure Rajaram Maruti)
(Date of Birth:01.06.1957 age:62 years 07-
months), Worked as : Superintendent
(Retd.) (Group "B" post) in the office
Commissioner of Central Excise, Pune-IV
Commissionerate GST Bhavan, Sassoon
Road, Pune 411001

3. Satya Jeet Singh
(Son of Shri Ram Autar Singh)
(Date of Birth:05.03.1982 age:37
years 10 months), Worked as :
Superintendent (Retd.)
(Group "B" post) in the office Group
12, Circle-III, Audit-II, Pune CGST
Commissionerate, 41/A, ICE House,
Sassoon Road, Pune 411001

... *Applicants*

(By Advocate Shri R.G. Walia)

Versus

1. Union of India

Through : The Revenue Secretary,
Government of India, Ministry of Finance,
Department of Revenue,
North Block, New Delhi – 110 001.

2. The Chairperson,
Central Board of Excise &
Customs (CBEC) & GST,
Ministry of Finance,
Department of Revenue,
North Block, New Delhi – 110 001.
3. The Principal Chief Commissioner of
Central Tax,
CGST and Central Excise,
PUNE Zone IV Commissionerate,
GST Bhavan, Sassoon Road,
Pune 411001.
4. The Principal Chief Commissioner of
Central Tax, CGST and Central Excise,
Mumbai Zone, Cadre Controlling Authority
(CCA), 115, M.K. Road, Central Excise
Building, Churchgate, Mumbai – 400 020.
5. The Principal Chief Commissioner of
Central Tax, CGST and Central Excise,
Nashik Zone, Kendriya Rajaswa Bhawan
: R.G. Gadkari Chowk, Nashik – 422 002.
6. The Principal Chief Commissioner of
Central Tax,
CGST and Central Excise,
Aurangabad Zone, N-5,
Town Centre, CIDCo,
Aurangabad – 431 03.

ORDER

Present:

Shri R. G. Walia, learned counsel for the applicant.

2. This OA has been filed by the applicant

no. 1 i.e. All India Association of Central Excise Gazetted Executive Officers through its General Secretary, Pune unit representing the Superintendents of Central Tax, applicant no. 2, working under the Respondents on the post of Superintendents and applicant no. 3, working on the post of the Superintendent in Pune Zone - IV under Section 19 of the Administrative Tribunals Act, 1985 claiming the following reliefs:

- “a) This Hon'ble Tribunal may be pleased to call for a) the records and proceedings of the case respect of Non-Functional Grade pay and salary and after going through its proprietary, legality and constitutional validity be pleased to direct the Respondents to grant Non-Functional Grade (NFG) Scale i.e. Pay Band-2- Rs.9300-34800+GP of Rs.5400/- after completion of 4 years of service of the Applicants in Pay Band-2 Rs.9300-34800/-+ GP Rs.4800/-, with consequential benefits of arrears of pay, pay fixation etc. to all Officials listed at Annexure 'A8' and other Applicants herein with all consequential benefits of pay fixation, pension/family pension fixation, arrears of pay, arrears of pension/family pension, other retiral dues etc with 18% interest thereon.
- b) This Hon'ble Tribunal may be pleased to hold b) and declare that the Official (Annx.A8) are entitled to get the benefit of the Non-Functional Grade (NFG) Pay Scale of PB2 Rs.9300-34800 + Grade Pay Rs.5400/-(revised) after 4 years of service in PB2 Rs.9300-34800 + Grade Pay Rs.4800/-(revised) along with arrears and that the judgment dated 08.10.2018 in Original Application No.503 of 2017 will be fully applicable and effected to the Officials (Annx.A8) with all consequential benefits of pay fixation, pension/family pension fixation, arrears of pension/family pension, other retiral dues etc with 18% interest thereon.
- c) Any other and further orders as this Hon'ble Tribunal may deem fit, proper and necessary in the facts and circumstances of the case.
- d) Cost of this Original Application be provided for.”

3. Heard Shri R. G. Walia, learned counsel for the applicant on the point of admission. It is argued that all the applicants are entitled

to the benefit of Non-Functional Grade (NFG) in terms of the judgment of Hon'ble Madras High Court in the case of **M. Subramaniam vs. UOI & Ors** in WP No.13225/2010. It is submitted that the Hon'ble Apex Court had dismissed the SLP against this order and thereafter the review petition. It is submitted that identical issue was involved in O.A.no.716/2019 disposed of by this Tribunal vide order dated 22.11.2019 whereby directions were given to the respondents to consider the case of the retired and working officers and similarly placed persons to grant the benefit accordingly.

4. After hearing the applicants' counsel, we have perused the details annexed to the O.A. and find that applicant no.3 and two other Superintendents have submitted their representations on 19/22.11.2019 to Commissioner, CGST Audit-I, Commissionerate, Pune on this subject. These representations are yet to be decided. The other similarly placed applicants as listed under Annex-A-8 to the O.A. may also submit their representations, if they so wish, to the concerned respondent authority.

In view of the above, in our opinion, without expressing any opinion on merits of the O.A., it would be appropriate to dispose of this O.A. at admission stage itself with direction to

the respondents to consider on merits the cases of the present applicants and others whose representations have already been submitted and if any other representations are filed within 15 days of receipt of this order, for grant of non-functional grade as per the stipulations under the relevant rules and binding instructions as well as applicable caselaws, and take appropriate decisions within eight weeks of receipt of copy of this order.

5. No orders as to costs.

(Ravinder Kaur)
Member (J)

(Dr. Bhagwan Sahai)
Member (A).

gm

SD
29/07

