

**CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH**

ORIGINAL APPLICATION NO.170/00205/2020

DATED THIS THE 24TH DAY OF SEPTEMBER, 2020

CORAM:

HON'BLE SHRI SURESH KUMAR MONGA, MEMBER (J)

(On video conference from Central Administrative Tribunal, Bangalore Bench, Bangalore)

HON'BLE SHRI RAKESH KUMAR GUPTA, MEMBER (A)

(On video conference from Central Administrative Tribunal, Bangalore Bench, Bangalore)

Shri Umesha Kadambalithaya
S/o M.L. Keshava Kadambalithaya
Aged about 54 years
Working as Superintendent of Customs,
New Custom House, Mangalore
Residing at: 3-5/81(2), 'Nischintha',
Vasantha Nagar, Kulshekar Post,
Mangaluru 575 005

....Applicant

(By Advocate Shri B.S. Venkatesh Kumar- through video conference)

Vs.

1. Union of India represented by
Secretary to Government
Ministry of Finance
Department of Revenue
North Block, New Delhi-110 001.
 2. Central Board of Excise & Customs (CBEC) & GST
By its Chairman
North Block, New Delhi-110 001.
 3. The Principal Chief Commissioner of
Central Tax, Bangalore
P.B.No.5400
Central Revenue Building
Queen's Road Bangalore-560 001.
-Respondents

(By Shri M.V. Rao, Counsel for the Respondents- through video conference)

O R D E R (ORAL)**PER: SURESH KUMAR MONGA, MEMBER (J)**

The present Original Application has been filed by the applicant under Section 19 of the Administrative Tribunals Act, 1985 seeking therein a direction to respondents to grant him Non-Functional Grade (NFG) in the Pay Band-2 with Grade Pay of Rs.5400/- after completion of 4 years of service in Pay Band-2 Grade Pay of Rs.4800/-.

2. Shri B.S. Venkatesh Kumar, learned counsel representing the applicant, submitted that one Shri M. Subramaniam who joined the services of respondents as Inspector of Central Excise on 16.01.1992 was granted first ACP on 01.01.2004 in the pay scale of Rs. 7500 – 12000. His prayer for grant of NFG with effect from the date he completed 4 years' service was rejected. Therefore, he approached the Chennai Bench of this Tribunal by way of filing Original Application No. 167/2009 and the said Original Application was dismissed.

3. Aggrieved by the order passed by Chennai Bench of this Tribunal, Shri Subramaniam filed Writ Petition No. 13325/2010 before the Hon'ble High Court of Madras which came to be allowed vide order dated 06.09.2010.

4. While setting aside the order passed by the Chennai Bench of this Tribunal, the Hon'ble High Court of Madras directed the respondents to

extend the benefit of Grade Pay of Rs. 5400/- to Shri Subramaniam with effect from 01.01.2008.

5. The Union of India being aggrieved of the order dated 06.09.2010 passed by the Hon'ble High Court of Madras, approached the Hon'ble Supreme Court in Civil Appeal No. 8883/2001 which was dismissed on 10.10.2017.

6. Still dissatisfied, the Union of India, preferred RP (C) No. 2512/2018 which was also dismissed by the Hon'ble Supreme Court on 23.08.2018 and ultimately the order dated 06.09.2010 passed by the Hon'ble High Court of Madras attained finality.

7. Learned counsel for the applicant further submitted that the Chandigarh Bench of this Tribunal in OA No. 1044/2015 has also granted the same benefit to counterparts of the applicant. Similar applications filed before the Mumbai Bench and the Ernakulam Bench of this Tribunal have also been allowed.

8. The aforestated facts as narrated by Shri B.S. Venkatesh Kumar have not been disputed by Shri M.V. Rao, learned counsel representing the respondents.

9. In view of the above, we do not see any reason with the respondents to not to allow the same benefit to applicant as has been granted by the

respondents to his counterparts pursuant to order dated 06.09.2010 passed by the Hon'ble High Court of Madras.

10. Accordingly, the present Original Application is allowed in the same terms of the order dated 06.09.2010 passed by the Hon'ble High Court of Madras in Writ Petition No. 13325/2010 and in compliance thereto the respondents shall issue an appropriate order in favour of the applicant within a period of two months from the date of receipt of a certified copy of this order.

11. However, there shall be no order as to costs.

(RAKESH KUMAR GUPTA)
MEMBER (A)

(SURESH KUMAR MONGA)
MEMBER (J)

/ksk/

Annexures referred to by the applicant in OA No.170/00205/2020

Annexure-A1: Circular dtd.21.11.2008

Annexure-A2: Circular dtd.11.2.2009

Annexure-A3: Representation dtd.28.03.2019

Annexures with reply:

Annexure-R1: Order dtd.11.3.19 of Pr. Chief Commissioner of Central Tax, Bng.
