

**CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH**

Original Application No. 040/00062/2021

Date of Order: This, the 26<sup>th</sup> Day of February, 2021

**THE HON'BLE SMT. MANJULA DAS, MEMBER (J)**

**THE HON'BLE MR. NEKKHOMANG NEIHSIAL, MEMBER (A)**



Ms Ninamani Phukan  
Aged about 64 years  
Daughter of Late Trailokya Nath Phukan  
Resident of "Anand Kunj" Apartment  
Mother Teresa Road, Guwahati – 781021.

**... Applicant**

- Versus -

1. The Union of India  
Represented by the Secretary  
Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Excise and Customs  
North Block, New Delhi – 110001.
2. The Central Board of Indirect Taxes &  
Customs represented by the Chairman  
Ministry of Finance  
Department of Revenue  
North Block, New Delhi – 110001.
3. The Chief Commissioner  
Central Board of Indirect Taxes &  
Customs, Guwahati Zone  
GST Bhawan, Kedar Road  
Machkowa, Guwahati – 781001.

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4. The Commissioner  
Central GST Commissionerate  
Shillong, Central Excise, Shillong  
Marello Compound M.G. Road  
Shillong – 793001.
5. The Pay and Accounts Office  
Central Board of Excise & Customs  
M.G. Road, 'CRESCENS'  
Shillong – 793001.

**...Respondents.**



For the Applicant : Sri U.K. Nair, Sr. Advocate  
Ms. N. Shyamal.

For the Respondents : Sri V.K. Bhatra, Sr. CGSC

### **ORDER (ORAL)**

#### **MANJULA DAS, MEMBER (J):-**

This O.A. has been preferred by the applicant under Section 19 of the Administrative Tribunals Act, 1985 with the following reliefs:-

"8.(i) To direct the respondent authorities to revise the pay of the applicant w.e.f. 01.01.2016 and to release to her the arrears thereof along with interest at bank norms from the date the same was payable till the date of the actual payment.  
;

8.2 To restrain the respondent authorities from effecting any recovery from the pay, Pension and Pensionary Benefits of the applicant on account

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of the deemed recovery of the amount purportedly drawn by the applicant pursuant to the grant of 3<sup>rd</sup> MACP benefits at Grade Pay Rs.6,600.

8.3 To direct the Respondent Authorities to forthwith finalise the revision of Pension and Pensionary Benefits w.e.f. 01.03.2016 on account of implementation of the recommendation of the 7<sup>th</sup> CPC and to release to the applicant the arrears thereof along with interest at Bank norms w,e,f, the date the same was due till the date of actual payment.

8.4 Cost of the application.



2. Brief facts of the case is that – the applicant on her superannuation on 26.02.2016, was entitled to have her pay while in service fixed in the revised scale of pay coming into force w.e.f. 01.01.2016 on implementation of the 7<sup>th</sup> CPC recommendations. The PPO issued in case of the applicant was also required to be revised and her Pension and Pensionary benefits recalculated by applying the scale of pay that would be authorized to her on revision. The failure on the part of the respondent authority in revising the Pension and other Pensionary benefits of the applicant w.e.f. 01.03.2016 by depriving her legitimate due cannot be sustained and requires to be interfered with by this Tribunal. The applicant being in no way responsible for her

placement at Grade Pay of Rs. 6,600/- on grant of 3<sup>rd</sup> MACP benefits since she was having enjoyed the said benefit till the date of her superannuation without any objection. Hence subsequent decision of the respondent authorities for recovering an amount of Rs. 33,106, from the retirement gratuity by delaying of effecting the revision of her pay, Pension and Pensionary Benefits is arbitrary, illegal and cannot be sustained.



3. Further, on account of the inaction on the part of the respondent authorities, the applicant was forced to draw her pension at the stage of Rs. 17,110/- w.e.f. 01.03.2016 till date and that too without being authorized Dearness Allowance at the rates applicable. The recovery as ordered in the case of the applicant on account of withdrawal of the 3<sup>rd</sup> MACP given to her with the Grade Pay of Rs. 6600/- authorized to her is clearly impermissible inasmuch as such withdrawal was so made after the applicant had superannuated from her service on 29.02.2016 and she had no role in the

authorization made in her favour of the 3<sup>rd</sup> MACP granted to her at the stage of Rs. 6600/- w.e.f. 26.02.2012.



4. We have perused the letter dated 12.04.2017 Annexure – A/4 issued by the office of the Commissioner of Central Excise & Service Tax, Morellow Compound, M.G. Road, Shillong, for revision of pension in respect of pension of the applicant. By the said letter, the respondent authorities more particularly Chief Accounts Officer,, Office of the Commissioner of Central Excise & Service Tax, Shillong has intimated the applicant that as advised by PAO Shillong vide letter dated 08.02.2017, her pay has been rectified i.e. granting NFG in PB-2 with GP of Rs. 5400/- w.e.f. 01.01.2006 and decided to remove the 3<sup>rd</sup> MACP with GP of Rs. 6600/- vide office order dated 15.03.2017. Further intimated that consequent upon rectification of pay, an amount of Rs. 33,106/- only was liable to be recovered from retirement gratuity to finalize revision of her pension as per CCS (RP) Rules, 2016.

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5. The applicant in the instant case, had superannuated from her service on 29.02.2016 and till date, her pension as well as pensionary benefits have not been finalized. Hence we deem it fit and proper to dispose of the matter with the direction to the respondent authorities to finalise the pension as well as pensionary benefits due and admissible to her, in accordance with law, within a period of three months from the date of receipt of this order. So far recovery of an amount of Rs. 33,106/- is concerned, the same shall not be recovered from the applicant as the applicant has already retired from service on 29.02.2016 and in view of the decision and condition incorporated by the Hon'ble Supreme Court in the case of **State of Punjab & Others vs Rafiq Masih (White Washer) etc., (2015) 4 SCC 334**, recovery shall not be made and impermissible after retirement of a Govt. employee. Ordered accordingly in presence of Sri V.K. Bhatra, Sr. CGSC for the respondents where he has not made any objection.



5. If the applicant is not satisfied with the decision of the respondent authorities in finalization of the revision of pension in accordance with law, the applicant is at liberty to approach before this Tribunal for redressal of her grievance.

6. With the above directions, O.A. stands disposed of at the admission stage.

7. No order as to costs.



**(NEKKHOMANG NEIHSIAL)**  
**MEMBER (A)**

**(MANJULA DAS)**  
**MEMBER (J)**

**PB**

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