

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

OA/021/269/2020

HYDERABAD, this the 26th day of June, 2020

(Through Video Conference)

***Hon'ble Mr. Ashish Kalia, Judl. Member
Hon'ble Mr. B.V. Sudhakar, Admn. Member***



M. Sai Ashok, S/o. late M. Jaganadham (Group-B),
Aged 59 years, Occ: Section Officer/ Court Officer,
CAT, Hyderabad Bench, Hyderabad
R/o. H.No.17-412, Jyothi Nagar,
Lalaguda, Secunderabad – 500 017.

... Applicant

(By advocate: Mr. N. Vijay)

Vs

1. Union of India,
Ministry of Personnel, Public
Grievances and Pensions,
Dept. of Personnel & Training,
North Block,
New Delhi – 110 001 rep. by its
Secretary.
2. The Principal Registrar,
Central Administrative Tribunal,
Principal Bench,
Copernicus Marg,
New Delhi – 110 001.
3. The Registrar,
Central Administrative Tribunal,
Hyderabad Bench,
HACA Bhavan,
Hyderabad – 500 004.

... Respondents

(By advocate: Mrs. K. Rajitha, Sr. CGSC)

O R D E R (ORAL)

Hon'ble Mr.B.V. Sudhakar, Admn. Member



2. The OA is filed challenging the action of the respondents in not granting the Grade Pay of Rs.5400/- with effect from the date of completion of 4 years in the Grade Pay of Rs.4800.

3. Brief facts of the case are that the applicant came on deputation to Central Administrative Tribunal, Hyderabad Bench and was absorbed in the grade of LDC on 1.11.1989. Thereafter, he was promoted as UDC on 14.03.2001; as Assistant on 01.1.2009 with Grade Pay of Rs.4600/- in PB-2. He was also granted III MACP w.e.f. 01.04.2013 and his pay was fixed in the Pay Band-2 with Grade Pay of Rs.4800/- in PB-2. Subsequently, he was promoted as Section Officer w.e.f. 01.10.2015 and has completed 4 years of service in the said grade on 30.09.2019. The applicant claims that since he has completed 4 years in the grade pay of Rs.4800 on grant of III MACP w.e.f. 01.04.2013, he is eligible for the next higher grade pay of Rs.5400/- w.e.f. 01.04.2017. He also states that he is due to retire on 30.06.2020. As the respondents have not granted the eligible grade pay of Rs.5400 the OA has been filed praying for resolving the grievance.

4. The contentions of the applicant are that CCS (RP) Rules, 2008 provide for higher grade pay of Rs.5400/- to Superintendents of Customs & Central Excise Department and the Postal Department. This Tribunal, Hon'ble High Court and the Hon'ble Supreme Court have granted the relief in respect of similarly placed employees and the respective departments have implemented the same. The applicant has relied on the order of this Tribunal in OA 1126/2018 dt.16.11.2018 in support of his contention.



5. When the case came up for hearing on 10.06.2020, learned Standing Counsel for the respondents promised to revert with a reply within two weeks and therefore, the case was adjourned to today. However, reply was not filed till today as promised. Learned counsel for the applicant prayed that since the applicant is retiring this month end, the case may be decided since the issue involved in this OA is squarely covered by the order of this Tribunal in OA No.1126 of 2018.

6. Heard both the counsel and perused the material on record.

7. It is seen that the applicant worked in the Grade Pay of Rs.4800 w.e.f. 01.04.2013. As per the VI CPC recommendations, after completion of 4 years of service in the grade pay of Rs.4800/- in P.B.-2, Group B officers are eligible for Grade Pay of Rs.5400/- on Non-functional basis, provided they are clear from vigilance angle. In this case, the applicant has completed 4 years of service with the Grade Pay of Rs.4800/-. This Tribunal in OA 986/2019, vide order dt. 8.11.2019, allowed the claim for Grade Pay of Rs.5400/- on Non-functional basis in respect of the officers in Customs and Central Excise Department, based on the judgment of the Hon'ble High Court of Madras in WP No. 13225/2010, which was upheld by the Hon'ble Supreme Court in CA No. 8883/2011, vide order dt. 10.11.2017. The relevant para of the order of this Tribunal in OA No. 1126/2018, dt. 16.11.2018 is extracted as under:

“6. The same issue was subject matter of challenge before the Madras High Court in WP No.13225 of 2010. The Madras High Court allowed the Writ Petition by order dt. 06.09.2010 holding that the impugned executive instructions are contrary to the Government of India resolution and the CCS (Revised) Pay Rules, 2008 and directed the applicants therein to be granted Grade Pay of Rs.5400/- from the date of completion of regular service of 4 years in the Grade Pay of Rs.4800/-. The said case carried in appeal to the Hon'ble Supreme Court vide SLP(c) No.15627 of 2011 by the respondents and the Hon'ble Supreme Court dismissed the Civil Appeal confirming the order passed by the Madras High Court. The Review Petition (Civil) No. 2512 of 2018 in Civil Appeal No. 8883 of 2011 filed by the respondents was also dismissed by the Hon'ble Supreme Court.

The Tribunal also allowed OA 1051/2010 filed by the employees of Central Excise Department questioning the very same proceedings issued by the 2nd respondent dated. 16.09.2009.

7. *The issue has therefore been finally adjudicated and no longer res integra. As the Review Petition No. 2512 of 2018 was dismissed by the Hon'ble Supreme Court, the applicants are entitled for the relief prayed for in the present OA. “*

 Learned counsel for the applicant submitted that the applicant also made a representation to the respondents on 13.12.2019 but the same has not been disposed of. Learned Senior Standing Counsel appearing for the respondents submitted that the higher grade pay of Rs.5400/- would be given after rendering 4 years regular service in the Grade Pay of Rs.4800/- and not for adhoc service and she sought to rely on the OM dt. 01.04.2009 issued by the respondents. In response, learned counsel for the applicant submitted that the claim of the applicant is in regard to grant of GP of Rs.5400/- after completion of 4 years of service in the grade pay of Rs.4800/- based on the recommendations of VI CPC and therefore, the contention of the learned standing counsel is not tenable and is irrelevant to the case on hand. Further it was stressed by the Ld. Applicant's counsel that the OM referred to by the Ld. Counsel for the respondents was in the context of fixing grade pay in regard to promotion and not in respect of those who have rendered 4 years of service in the grade pay of Rs.4800 as was lucidly adjudicated in the OA referred to by this Tribunal.

In view of the above position and in the absence of any reply, the respondents are directed to examine the case of the applicant keeping in view the cases cited above and the latest instructions on the subject, and grant the eligible relief to the applicant, if he is similarly situated as that of the persons in the cited cases, within a period of 12 weeks from the date of receipt of this order.

The OA is disposed of, with the above directions, at the admission stage.

There shall be no order as to costs.



(B.V. SUDHAKAR)
ADMN. MEMBER

/pv/evr

(ASHISH KALIA)
JUDL. MEMBER