



BEFORE THE CENTRAL ADMINISTRATION TRIBUNAL

KOLKATA BENCH

350 / 1910
O.A. No. of 2018

In the matter of:

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

And

In the matter of:

1. Pijush Kanti Ghosh, son of
Sri Amarendra Nath Ghosh,
aged about 52 years, residing at
Gobinda Barrack, P.O. Barasat,
District - 24 Parganas (North),
West Bengal, Kolkata - 700124;

2. Prabir Ghatak, son of Sri
Gopal Chandra Ghatak, aged
about 52 years, residing at
26/1, Sastri Narendra Nath
Ganguly Road, Howrah-
711104;

3. Subhasis Biswas, son of Sri Santosh Kumar Biswas, aged about 52 years, residing at Flat No. A/6, South View Apartment, 51/A, middle Road, Barrackpore, Kolkata - 700122;

4. Soumen Bose, son of Late Satya Kinkar Bose, aged about 51 years, residing at P.O.- Duilya, Pakurtala, Mouri Andul, Howrah-711302.

5. Suman Chakraborty, son of Late Accori Chakraborty, aged about 52 years, residing at 95/3, Swami Vivekananda Road, Howrah-711101;

6. Samir Kumar Acharjee, son of Late Dulal Chandra Acharjee, aged about 45 years, residing at Netaji Subhas

Sarani. Goshpara (N),

Nischinda, Howrah - 711227;

7. Sanjoy Bandyopadhyay,
son of Late Murari Mohon
Bandopadhyay, aged about 51
years, residing at 452, S. S.
Bose Sarani, P.O.-Baidyabati,
District-Hooghly, Pin-712222;

8. Bimal Chandra Biswas,
son of Late Balaram Biswas,
aged about-53 years, residing at
Shantinagar, Bidhan Sarani,
P.O.-Hridaypur, Kolkata
700127;

9. Souren Bose, son of Late
Rabindranath Basu, aged about
51 years, residing at 32/N,
Doctor Bagan Lane, P.O.-
Serampore, Hooghly-712203;

10. Sadhu Rajak, son of Late
Kalu Rajak, aged about 46

years, residing at -Gondal Para,
Char Mondirtala, Sishubabu
Lane, Chandennagore, Hooghly-
712136;

11. Ajoy Narayan Roy, son of
Late Krishna Narayan Roy, aged
about 54 years, residing at
North Biresh Pally, P.O.-
Madhyamgram, Kolkata-
700129;

12. Amit Kumar Saha, son of
Late Monoranjan Saha, aged
about 54 years, residing at
Village- Aminpur, P.O.
Khamarchandi, P.S.-Haripal,
District -Hooghly, PIN 712405;

13. Rajat Chatterjee, son of
Late Ranjit Lal Chatterjee, aged
about 47 years, residing at
16/7, Dover Lane, Block D/1,

Flat No. 101, 2nd Floor, Kolkata

- 700029;

14. Partha Pratim Mitra, Late
Satyendra Nath Mitra, aged
about 52 years, residing at 103,
Ultadanga Main Road, H.S.IV(S),
Block-3, Flat-2, Kolkata-
700067.

15. Samrat Chakraborty, son
of Sri Arun Kanti Chakraborty,
aged about 45 years, residing at
Opposite to Post Office - Dhalua
Nabapalli (near Garia Railway
Station, Kolkata-700152.

16. Kuheli Halder, daughter
of Late Jugal Ch. Halder, aged
about 52 years, residing at P-
145, C.I.T. Road, Beliaghata,
Kolkata - 700010.

17. Mausumi Chatterjee,
daughter of Late Debasis

Chakraborty, aged about 51 years, residing at Vivekananda Park, Lower Kumarpur, Senralleigh Road, Asansol, Pin - 713305.

18. Abhijit Bandhopadhyay son of Late Umaprosad Bandyopadhyay, aged about 52 years, residing at Barsha Apartment, 4th Floor, 66, K.N.C. Road, Barasat, North 24 Parganas, Pin - 700124.

19. Tapan Kumar Mondal, son of Shri Niru Mondal, aged about 51 years, residing at 2nd Floor, 82, Chandi Ghosh Road, Kolkata - 700040.

20. Bhaskar Routh, son of Late Nepal Ch. Routh, aged about 52 years, residing at 106, M. B. Road, Nimta, District - 24

Parganas, West Bengal,
Kolkata -700049.

21. Rabindra Nath Ghosh, son
of Late Sushanta Kr. Ghosh,
aged about 51 years, residing at
BE-17, Deshbandhu Nagar,
Nirupama Apartment, Kolkata
-700059.

22. Sumit Sengupta, son of
Late Sisir Kr. Sengupta, aged
about 50 years, residing at 66,
Purbachal Main Road, Kolkata -
700078.

23. Bhaskar Dey Dhara, son of
Late Bholanath Dey Dhara, aged
about 51 years, residing at
Gopal Bhawan, Tarulia 3rd
Lane, Kestopur, Kolkata
700102.

24. Abhijit Pal, son of Sunil
Kumar Pal, aged about 47 years,

residing at Barasat, Nandypara,
Post Office- Chandernagore, Pin
- 712136.

25. Smt. Sarmistha Mishra,
son of Nemai Chand Dey, aged
about 48 years, residing at 86,
Maharshi Devendra Road, Flat
No.9, Kolkata-700006.

26. Shri Brajesh Kumar, son
of Late Om Prakash Mishra,
aged about 52 years, residing at
86, Maharshi Devendra Road,
Flat No.9, Kolkata-700006,

... Applicants

-Versus-

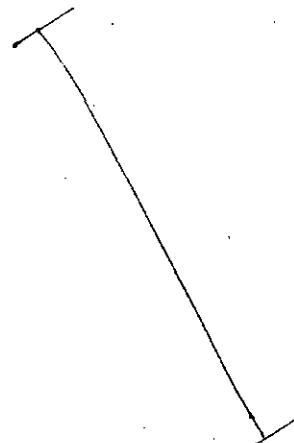
1. Union of India, service
through the Secretary to the
Government of India, Ministry of
Finance, Department of
Revenue, North Block, New
Delhi- 110001.

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/350/1910/2018
MA 944/2018

Date of Order: 03.03.2020

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

Pijush Kanti Ghosh & 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. 944/2018 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. All the applicants, except applicant No.6, are presently working as Superintendent of CGST & CX and they 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 on completion of 4 years of service in the Grade Pay of Rs. 4,800/- in PB-2 i.e. w.e.f different dates as mentioned in para 4(f) herein above.

c) An order 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 had joined the post of UDC during 1997 and 1998 and, at the relevant point of time, they were working as Inspector. Subsequently, MACP benefit was granted to them (applicant No.26 was granted ACP benefit w.e.f. 03.03.2004), 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/8, 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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