

CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH, KOLKATA



No. O.A. 350/00351/2020
M.A. 350/00207/2020

Date of order: 7.8.2020

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

1. Goutam Sarkar,
Son of Biswanath Sarkar,
Aged about 50 years,
Residing at 24/1, Danesh Sk. Lane, Howrah,
711109, and working as
Superintendent CGST & CX Appeal - II Commissionerate.
2. Kirti Chattopadhyay,
Son of Late Kamal Chattopadhyay,
Aged about 54 years,
Residing at P-434A,
Parnasree Pally,
Kolkata - 700 060, and
Working as Superintendent,
Audit - I Commissionerate.
3. Sudip Kumar Mondal,
Son of Late Amarendra Nath Mondal,
Aged about 52 years,
Residing at Shree Housing Complex,
Block - AH, Action Area - 1A, New Town,
Kolkata - 700 156 and
Working as Superintendent (Ad-hoc) Kolkata
South CGST & CX Commissionerate.
4. Bibha Sen,
Daughter of Late Amulya Krishna Bachhar,
Aged about 52 years,
Residing at Fairy Apartment,
Narayanpur (West),
Baguiati,
Kolkata - 700 053 and
Working as Superintendent,
Kolkata North Commissionerate.
5. Sabita Bhakat,
Daughter of Manindra Chandra Das,
Aged about 53 years,
Residing at Bijoyanandan,
23/1 (118/1), North Purbachal Garden Road,



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Kolkata - 700 079.

6. Dolan Champa Sur,
Daughter of Late Dilip Kumar Sur,
Aged about 45 years,
Residing at 113A/4, Sarat Ghosh Garden Road,
Kolkata - 700 031,
And working as Superintendent,
Haldia CGST & CX Commissionerate.
7. Silpi Dasgupta,
Daughter of Late Bimalananda Dutta,
Aged about 55 years,
Residing at 250, R.N. Guha road,
Kolkata - 700 028,
And working as Superintendent,
Kolkata North Commissionerate.
8. Abhijit Dasgupta,
Son of Late Satya Ranjan Dasgupta,
Aged about 61 years,
Residing at 250, R.N. Guha Road,
Kolkata - 700 028,
By Occupation - Superintendent(Retired),
From Central Division,
Kolkata North Commissionerate.
9. Sumita Nandy,
Daughter of Late Bijoy Prasad Nandi,
Aged about 46 years,
Residing at 79, P. Majumdar Road,
Kolkata - 700 107, and
Working as Superintendent,
Haldia Commissionerate.
10. Kausik Dutta,
Son of Late Sarbari Bhusan Dutta,
Aged about 47 years,
Residing at Nutan Bazar,
Post Office and District - Midnapore,
Pin - 721101 and
Working as Superintendent
Haldia CGST & CX Commissionerate.
11. Swapan Das,
Son of Govinda Das,
Aged about 59 years,
Residing at Duillya,
Maurigram,



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Kolkata - 700 079.

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Son of Govinda Das,
Aged about 59 years,
Residing at Duillya,
Maurigram,



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Howrah - 711 302, and
Working as Superintendent,
Kolkata North CGST & CX Commissionerate.

12. Surajit Chatterjee,
Son of Ranajit Chatterjee,
Aged about 50 years,
Residing at 14, P.L. Shome Street,
Bhadrakali,
Hooghly - 712232 and
Working as Superintendent.
13. Arijit Dutta,
Son of Binay Krishna Datta,
Aged about 47 years,
Residing at AB-3,
Deshbandhu Nagar,
Kolkata - 700 059 and
Working as Superintendent,
Kolkata North Commissionerate.
14. Sanjan Kumar Baidya,
Son of Late B.N. Baidya,
Aged about 46 years,
Residing at B-6/401,
Subhas Nagar Housing Complex,
Post Office - Pravas Nagar,
Hooghly - 712249 and
Working as Superintendent,
Kolkata North Commissionerate.
15. Somnath Saha,
Son of Late Bijoy Kumar Saha,
Aged about 52 years,
Residing at Dakshin Barasat,
South 24 Parganas and
Working as Superintendent,
Kolkata South CGST & CX Commissionerate.
16. Suvajit Sarkar,
Son of Late Shakti Ranjan Sarkar,
Aged about 50 years,
Residing at 544, Dum Dum Park,
Kolkata - 700 055 and
Working as Superintendent,
Haldia Commissionerate.
17. Sephali Datta,
Wife of Late Vivekananda Datta,



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Aged about 60 years,
Residing at 4, Auddy Lane,
Serampore,
Hooghly - 712201,
And by Occupation Ex- Superintendent,
Singur Division,
Howrah Commissionerate.

18. Tara Sankar Nag,
Son of Late Durga Sankar Nag,
Aged about 55 years,
Residing at 325A, Brahminpara,
Chandannagar,
Post Office - Khalisani,
Hooghly - 712138 and
Working as Superintendent,
Howrah Commissionerate.
19. Subir Kumar Pal,
Son of Sudhir Kumar Pal,
Aged about 53 years,
Residing at 1050/2, Survey Park,
Kolkata - 700 075 and
Working as Superintendent,
Tollygunge Division,
CGST & CX,
Kolkata South Commissionerate.
20. Harihar Ghose,
Son of Late Dhrubajyoti Ghose,
Aged about 51 years,
Residing at Boxigali,
Chandernagore, Hooghly and
Working as Superintendent Sankrail Division,
Howrah CGST & CX Commissionerate.
21. Dinabandhu Pramanick,
Son of Late Biswanath Pramanick,
Aged about 59 years,
Residing at
Village and Post Office - Pritinagar,
District - Nadia,
Pin - 741247, and
Working as Superintendent,
Kalyani Nadia Division,
Kolkata North Commissionerate.
22. M. Srinivasa Rao,
Son of Late M. Jagga Rao,



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Aged about 50 years,
Residing at Ratneswar Ghat Road,
Bye Lane,
Post Office Garulia,
District – North 24 Parganas and
Working as Superintendent,
Khardah Division,
Kolkata North Commissionerate.

23. Sandip Kumar Das,
Son of Late Sunil Kumar Das,
Aged about 54 years,
Residing at Hatpukur,
Post Office – GIP Colony,
Howrah – 711 112 and
Working as Superintendent,
Kolkata South CGST & CX Commissionerate.

24. Pradip Kumar Dhar,
Son of Late Ravindra Nath Dhar,
Aged about 60 years,
Residing at Lalpur Bose Para,
Post Office – Chakdah,
District – Nadia and by occupation – Superintendent
(Retired), Kalyani Division,
Kolkata North Commissionerate.

25. Swapan Kumar Palit,
Son of Late Satyendra Krishna Palit,
Aged about 55 years,
Residing at
Village – Lalpur,
Chakdah, District – Nadia,
Pin – 741222 and
Working as Superintendent,
Khardah Division,
Kolkata North Commissionerate.

26. Syed Mazhar Ali,
Son of Late Hasmat Ali,
Aged about 53 years,
Residing at 9/2, Dr. H.K. Chatterjee Lane,
Belur,
Howrah – 711 202.

27. Anand Kumar Mishra,
Son of Devendra Nath Mishra,
Aged about 58 years,
Residing at Bidhan Pally,

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Post Office – Kharagpur,
District – West Medinipur, and
Working as Superintendent of
CGST & CX Howrah.

28. Milan Mondal,
Son of Gurudas Mondal,
Aged about 52 years,
Residing at 1047, Jessore Road,
Kolkata – 700055 and
Working as Superintendent,
CGST & CX Howrah Commissionerate.
29. Dinesh Ranjan Mondal,
Son of Late Kashi Ranjan Mondal,
Aged about 55 years,
Residing at Sitala (West),
Post Office – Sonarpur,
Kolkata – 700 150,
And working as Superintendent,
Kolkata Audit – I Commissionerate.
30. Sreetosh Banerjee,
Son of Prantosh Banerjee,
Aged about 51 years,
Residing at 135, Boral Main road,
Kolkata – 700 084,
And working as Superintendent,
Gangtak Division,
Siliguri Commissionerate.
31. Subhendu Bhattacharjee,
Son of Late Bhabesh Chandra Bhattacharjee,
Aged about 54 years, residing at
J7, Banerjee Para,
Kamdahari,
Garia,
Kolkata – 700 084,
And working as Superintendent, Kolkata South
CGST & CX Commissionerate.
32. Rajib Dutta,
Son of Tarak Nath Dutta,
Aged about 57 years,
Residing at 2/B, Taltala Bazar Street,
Kolkata – 700 014 and
Working as Superintendent,
CGST & CX, Howrah Commissionerate.



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33. Prabir Rakshit,
Son of Late Jatindra Lal Rakshit,
Aged about 62 years,
Residing at Inda Bamunpara,
District – Paschim Medinipur,
Pin – 721 305, and by
Occupation as
Superintendent (Retired) from
Haldia Commissionerate.
34. Ramakanta Giri,
Son of Late Sambhunath Giri,
Aged about 54 years,
Residing at 24/1, Danesh Sk. Lane,
Howrah – 711 109 and
Working as Superintendent,
CGST & CX Appeal – II Commissionerate.
35. Debajyoti Chakraborty,
Son of Late Ajit Kumar Chakraborty,
Aged about 52 years,
Residing at Dakshindari Road,
Lake Town,
Kolkata – 700 048 and
Working as Superintendent,
Kalyani Division,
Kolkata North Commissionerate.
36. Ambarish Mondal,
Son of Anath Kumar Mondal,
Aged about 56 years,
Residing at Vivekananda Nagar,
Post Office – East Uday Rajpur,
24 Parganas (N)- 700 129 and
Working as Superintendent, CGST & CX,
Audit-I Commissionerate.
37. Bivas Sindhu Jana,
Son of Late Himansu Sekhar Jana,
Aged about 52 years,
Residing at Village and Post Office – Deoly,
District – Howrah – 711301 and
Working as Superintendent, CGST & CX
Commissionerate.
38. Md. Waliur Rahman,
Son of Late Md. Zillar Rohman,
Aged about 53 years,
Residing at Village – Majdia (West),
Post Office – Berhampore,
District – Murshidabad – 742101 and



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Working as Superintendent, CGST & CX,
Audit-I Commissionerate.

39. Smt. Subhra Dutta,
Daughter of Sri Samarendra Nath Mukherjee,
Aged about 53 years,
Residing at 403/1, New Balygunge Road,
Kolkata - 700039
And working as Superintendent, A & N Division,
Port Blair.
40. Saquib Akhtar,
Son of Late Shamsuzzoha,
Aged about 61 years,
Residing at 28, Kimber Street,
Kolkata - 700017
And by occupation Ex-Superintendent,
Retired from Central Tax (Audit),
Kolkata - II.
41. Sehanaz Akhtar,
Son of Late Mufakherul Islam,
Aged about 52 years,
Residing at 8B, Nasiruddin Road,
Kolkata - 700017
And working as Superintendent,
Central Tax, Audit-II Commissionerate.
42. Smt. Srabani Datta,
Daughter of Late Samir Kumar Datta,
Aged about 52 years,
Residing at 81/9, Banamali Naskar Road,
Kolkata - 700060
And working as Superintendent, CGST & CX,
Haldia Commissionerate.
43. Subhasis Kar Choudhury,
Son of Late Chittakar Choudhury,
Aged about 54 years,
Residing at 141, Sarat Bose Road,
Kolkata - 700065
And by occupation Ex-Superintendent, CGST & CX
(Retired from Kolkata North Commissionerate).
44. Sila Chandra,
Daughter of Late Jitendra Nath Biswas,
Aged about 55 years,
Residing at 12/9, Naya Patty Road,
Kolkata - 700055
And working as Superintendent, CGST & CX
Kolkata.

..... Applicant.

Versus

1. Union of India,

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Service through the Secretary
To the Government of India,
Ministry of Finance,
Department of Revenue,
North Block,
New Delhi - 110 001.

2. The Chairman,
Central Board of Excise & Customs
(Presently Central Board of Indirect Taxes and
Customs), North Block,
New Delhi - 110 001.
3. The Principal Chief Commissioner of
CGST & CX,
Kolkata, 180, Shanti Pally,
Kolkata - 700 107.
4. Commissioner of CGST & CX,
Howrah Commissionerate,
M.S. Building,
Customs House,
15/1, Strand Road,
Kolkata - 700 001.

..... Respondents.



For the Applicant : Mr. A.K. Manna, Counsel

For the Respondents : Mr. B.B. Chatterjee, Counsel

ORDER (Oral)

Per Dr. Nandita Chatterjee, Administrative Member:

The applicants have approached the Tribunal under Section 19 of the Administrative Tribunals Act, 1985 praying for the following relief:-

"(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 23.8.2018 and as decided by Board vide its letter dated 22.10.2019 and Estt. Order No. 286/19, dated 06.12.2019 issued in implementation thereof for extension of benefit covered under the judgment dated 06.09.2010 with all consequential benefits including arrears of pay;

(b) An order quashing and setting aside the clarification dated 11.2.2009 and directing the respondents to grant Grade Pay of Rs. 5400/- (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.

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(d) Any other order or further order / orders as this Hon'ble Tribunal may deem fit and proper."

2. Heard both ld. Counsel, examined documents on record. This matter is taken up for disposal at the admission stage.

3. An M.A. bearing No. 207 of 2020 has been filed by the applicants praying for liberty for joint prosecution.

All applicants share a common grievance that they have not been allowed the benefit of Grade pay of Rs. 5400/- while grade pay of Rs. 5400/- have been granted to similarly placed incumbents. The M.A. is hence allowed on grounds of commonality of cause of action and common interest and applicants are permitted to jointly prosecute this O.A. under Rule 4(5)(a) of Central Administrative Tribunal (Procedure) Rules, 1987, subject to payment of individual court fees.

4. Ld. Counsel for the applicant would submit that the applicants are all working as Superintendents of Central Excise, after being promoted from the grade of Inspector.



That, the Department of Expenditure, Ministry of Finance, Government of India, vide notification dated 29.8.2008, had notified that Gr. 'B' Officers of the Department of Posts/Revenue etc. will be granted the Grade Pay of Rs. 5400/- in PB-2 on Non-Functional basis after four years of regular service in Grade Pay Rs. 4800/- in PB-2 and, that, thereafter, a similar notification was issued on 21.11.2008 by the Department of Revenue reiterating the contents of the notification dated 29.8.2008 of the Department of Expenditure.

According to the applicants, as they had completed four years of regular service in Grade pay of PB-2, they are entitled to the Grade Pay of Rs. 5400/- in PB-2 on non-functional basis in terms of the above mentioned circulars.

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On 11.2.2009, however, another circular was issued by the Department of Revenue stating that officers who had been awarded pre-revised pay scale corresponding to Grade pay of Rs. 4800/- by virtue of financial upgradation under ACP, would not be entitled to the benefit of further non-functional upgradation to the pre-revised pay scale corresponding to Grade Pay of Rs. 5400/-.

While adjudicating on a challenge to the same, in WPCT No. 13225 of 2010, the Hon'ble High Court of Judicature of Madras, however, held as follows:-

"8. Thus, if an officer has completed 4 years on 1.1.2006 or earlier, he will be given the non-functional upgradation with effect from 1.1.2006 and if the officer completes 4-year on a date after 1.1.2006, he will be given non-functional upgradation from such date on which he completes 4-year in the pay scale of Rs. 7500-12000/- (pre-revised), since the petitioner admittedly completed 4-year period in the pay scale of Rs. 7500/- 12000/- as on 1.1.008, he is entitled to grade pay of Rs. 5400/-. In fact, the Government of India, having accepted the recommendations of the 6th Pay Commission, issued a resolution dated 29.8.2008 granting grade pay of Rs. 5400/- to the Group B Officers in Pay Band 2 on non-functional basis after four years of regular service in the grade pay of Rs. 4800/- in Pay Band 2. Therefore, denial of the same benefit to the petitioner based on the clarification issued by the Under Secretary to the Government was contrary to the above said clarification and without amending the rules of the revised pay scale, such decision cannot be taken. Therefore, we are inclined to interfere with the order of the Tribunal.

9. Accordingly, the Writ Petition is allowed setting aside the order of the Tribunal dated 19.4.2010 passed in O.A. No. 167 of 2009. The respondents are directed to extend the benefit of grade pay of Rs. 5400/- to the petitioner from 1.1.2008 as per the resolution dated 29.8.2010. No costs."

The issue was also taken up at various other judicial fora including the Hon'ble Apex Court, which affirmed the orders passed by the Hon'ble High Court of Judicature of Madras in WPCT No. 13225 of 2010. According to the applicants, as their eligibility has been affirmed by decisions in different judicial fora, they had represented before the respondent authorities, but to no effect. Ld. Counsel for the applicant would therefore submit that directions be issued to the competent respondent authority to dispose of pending representations in a time bound manner.



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5. Ld. Counsel for the respondents does not object to the disposal of such representations in accordance with law.

6. Accordingly, without entering into the merits of the matter, and, with the consent of the parties, we hereby direct the competent respondent authority to examine the contents of representations filed by the applicants at Annexure A-10 to the O.A. (colly.), if received at his end, and, to dispose of the same in accordance with law within a period of 16 weeks from the date of receipt of a copy of this order. The said authority shall convey his decision in the form of reasoned and speaking orders to the applicants forthwith thereafter.

7. With these directions, the O.A. is disposed of. M.A. No. 207 of 2020 is disposed of as noted at para 3 above subject to payment of individual court fees.



(Dr. Nandita Chatterjee)
Administrative Member

(Bidisha Banerjee)
Judicial Member

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