

LIBRARY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, CALCUTTA BENCH,

CALCUTTA

O. A. No. 350/00 424 of 2020

MA No 350/234/2020

1. AVIJIT MAITY, son of Late

Subrata Maity, aged about 48 years, working as Inspector of CGST & CX in the Gr.09/Circle - II, Kolkata Audit - I, CGST & CX under Chief Commissioner CGST, Kolkata Zone, GST Bhawan, 180, Santipally, Rajdanga Main Road, Kolkata - 700 107 and residing at 202, A.P.C Roy Road, Kalyan Co-operative, Birati, Kolkata - 700 051.

2. PARITOSH KUMAR SARDAR, son of Late Nirapada Sardar, aged about 58 years, working as Inspector of CGST & CX in Range - VI, Bhowanipur Division, Kolkata South Commissionerate, Kolkata and residing at village - Behari, P.O - Dhamua, P.S - Magrahat, South 24 Parganas, PIN - 743610.

B

Commissionerate and residing at 747,
M.G Road, Kolkata - 700 063.

6. DEBASISH BISWAS, son of
Naten Biswas, aged about 49 years,
working as Inspector of CGST & CX,
at Range - V, Park Street Division,
Kolkata South CGST & CX
Commissionerate and residing at
101, Ajay Nagar, Dum Dum, P.O -
Motijheel, Kolkata - 700 074.

7. ATANU CHAKRABORTY, son of
Late Gangadhar Chakraborty, aged
about 53 years, working as
Inspector of CGST & CX, Kolkata
Audit - I, CGST & CX
Commissionerate and residing at
Plot No. 58, LIC Township,
Madhyamgram, Kolkata - 700 129.


8. MITRA MAZUMDER, wife of Late
Dayamay Mazumder, aged about 49
years, working as Inspector of CGST
& CX, Range - V, Bidhannagar

Commissionerate and residing at 747,
M.G Road, Kolkata - 700 063.

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& CX, Range - V, Bidhannagar




Commissionerate and residing at
18C/3, Anjagarh, P.O - Birati,
Kolkata - 700 051.

11. KAKALI SENGUPTA, son of
Late Bijan Mallick, aged about 48
years, working as Inspector of CGST
& CX, at Appeal - I, CGST & CX
Commissionerate and residing at
74B, Padmapukur Road, Kolkata -
700 020.

12. RAVI CHANDRA VERMA,
son of Lt Gopal Chandra Verma,
aged about 49 years, working as
Inspector of CGST & CX, Vigilance
Branch, Kolkata Audit - I, CGST &
CX Commissionerate and residing
at 12/1, Pudda Pukur Lane, P.O -
LR Sarani, Kolkata - 700 020.

13. SUMAN MAJUMDER, son
of Late Sunil Kumar Majumder,
aged about 49 years, working as
Inspector of CGST & CX, Kolkata



Commissionerate and residing at
18C/3, Anjangerh, P.O - Birati,
Kolkata - 700 051.

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LR Sarani, Kolkata - 700 020.

13. SUMAN MAJUMDER, son
of Late Sunil Kumar Majumder,
aged about 49 years, working as
Inspector of CGST & CX, Kolkata

16. ABESH DE, son of Late Pranesh Chandra De, aged about 48 years, working as Inspector of CGST & CX Kolkata Audit - I Commissionerate and residing at 23/2, Jodhpur Colony, P.O - Lake Gardens, Kolkata - 700 045.

17. CHUMKI BHATTACHARYA, daughter of Late Janaki Bhusan Halder, aged about 46 years, as Inspector of CGST & CX, Range - III, Tollygaunge Division, Kolkata South CGST & CX Commissionerate and residing at 8, Seven Tanks Lane, Kolkata - 700 030.

18. BABITA MUNSHI, wife of Sri Ranjit Kumar Munshi, aged about 50 years, working as Inspector of CGST & CX, Rashbehari Division, TAR Section, Kolkata South CGST & CX, GST Bhawan, 180, Santipally, Rajdanga Main Road, Kolkata - 700

16. ABESH DE, son of Late Pranesh Chandra De, aged about 48 years, working as Inspector of CGST & CX Kolkata Audit - I Commissionerate and residing at 23/2, Jodhpur Colony, P.O - Lake Gardens, Kolkata - 700 045.

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B

44/2/3, Jheel Road, Pal Bazar,
Jadavpur, Kolkata - 700 075.

21. KAKALI BHATTACHARYA,
wife of Sujit Kumar Halder, aged
about 47 years, working as
Inspector of CGST & CX, at P & C
Section, Kolkata Audit - II CGST &
CX Commissionerate and residing
at 116/1, Ghosal Para, Nabagram,
Serampore, Hooghly - 712204.

22. APURBA RAY, son of Lt
Jogendra Chandra Ray, aged about
51 years, working as Inspector of
CGST & CX, Appeal - I
Commissionerate, Kolkata CGST &
CX and residing at Flat No. 2B1,
Greenwood Park, MIG - II, New
Town, Kolkata - 700 163.

23. SAMARENDRA KANTI
GHOSH, son of Sri Mrinal Kanti
Ghosh, aged about 50 years,
working as Inspector of Customs at

44/2/3, Jheel Road, Pal Bazar,
Jadavpur, Kolkata - 700 075.

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Commissionerate, Kolkata CGST &
CX and residing at Flat No. 2B1,
Greenwood Park, MIG - II, New
Town, Kolkata - 700 163.

23. SAMARENDRA KANTI
GHOSH, son of Sri Mrinal Kanti
Ghosh, aged about 50 years,
working as Inspector of Customs at

Panitanki Indo - Nepal Border and
residing at Himalya Kanya Abasan,
Phase - IIA, 2 ½ Mile, Sevoke Road,
Salugara, Jalpaiguri - 734008.

26. ARABINDA SARKAR, son of
Kalipada Sarkar, aged about 50
years, working as Inspector of CGST
& CX, Audit, RTI, Section, Bally - I
Division, Howrah CGST & CX
Commissionerate and residing at
Vill - Jeala, P.O - Ballavpur, North
24 Parganas, PIN - 743245.

27. DIPAL BHOWMIK, son of Late
Harasundar Bhowmik, aged about
51 years, working as Inspector of
CGST & CEX, office of the Assistant
Commissioner of CGST & CEX,
Cooch Behar Division and residing
at Hazrapara, P.O & Dist - Cooch
Behar, PIN - 736101.

28. OM PRAKASH, son of Shri
Ram Sundar Sharma, aged about

Panitanki Indo - Nepal Border and
residing at Himalya Kanya Abasan,
Phase - IIA, 2 ½ Mile, Sevoke Road,
Salugara, Jalpaiguri - 734008.

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Cooch Behar Division and residing
at Hazrapara, P.O & Dist - Cooch
Behar, PIN - 736101.

28. OM PRAKASH, son of Shri
Ram Sundar Sharma, aged about

(under Dinajpur Division), congress
Para, Balurghat - 733101 and
residing at Dadamore Mirchak, near
Dadaji Masjid, English Bazar, P.O
& Dist. - Malda, PIN 732101.

31. AKUL CHANDRA PAL, son
of Late Mahadeb Chandra Pal, aged
about 63 years, retired Inspector of
CGST & CX, Erstwhile Kolkata - I
Commissionerate, Taratala - II
Division and residing at 2/227F,
Sree Colony, Kolkata - 700 92.

32. SONALI KOEL, daughter of
Late Peter Paul Koel, aged about 43
years, working as Inspector of
CGST & CX, Range - IV, Durgapur -
II Division and residing at 08/19,
Bengal Ambuja, City Centre,
Durgapur - 713216.

33. AJAY KUMAR MAHATO,
son of Late Sripati Nath Mahato,
aged about 51 years, working as

(under Dinajpur Division), congress
Para, Balurghat - 733101 and
residing at Dadamore Mirchak, near
Dadaji Masjid, English Bazar, P.O
& Dist - Malda, PIN 732101.

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Durgapur - 713216.

33. AJAY KUMAR MAHATO,
son of Late Sripati Nath Mahato,
aged about 51 years, working as

Government of India, , having its office
at North Block, New Delhi-110001;

3. THE PRINCIPAL CHIEF
COMMISSIONER OF CGST&CX,
Kolkata Zone, GST Bhawan, 180,
Santipally, Rajdanga Main Road,
Kolkata-700107.

4. THE PRINCIPAL COMMISSIONER
OF CGST & CX, Kolkata North
Commissionerate, GST Bhawan, 180,
Santipally, Rajdanga Main Road,
Kolkata-700107.

5. THE COMMISSIONER OF CGST &
CX, Howrah Commissionerate, 15/1,
Strand Road, MS Building, Kolkata-
700001.

6. THE COMMISSIONER OF CGST &
CX, Kolkata Appeal-I Commissionerate,
GST Bhawan, 180, Santipally,
Rajdanga Main Road, Kolkata-700107.

7. THE ADDITIONAL DIRECTOR
GENERAL, in the office the Additional
Director General Of Taxpayer Service,

Government of India, , having its office
at North Block, New Delhi-110001;

3. THE PRINCIPAL CHIEF

COMMISSIONER OF CGST&CX,

Kolkata Zone, GST Bhawan, 180,
Santipally, Rajdanga Main Road,
Kolkata-700107.

4. THE PRINCIPAL COMMISSIONER

OF CGST & CX, Kolkata North

Commissionerate, GST Bhawan, 180,
Santipally, Rajdanga Main Road,
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Rajdanga Main Road, Kolkata-700107.

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GENERAL, in the office the Additional
Director General Of Taxpayer Service,

CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH, KOLKATA

No. O.A. 350/424/2020
M.A.350/234/2020

Date of order: 01.07.2020

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

AVIJIT MAITY & OTHERS
VS.
UNION OF INDIA & OTHERS

For the Applicant : Mr. P.C. Das, Counsel
Mr. A. Hait, Counsel

For the Respondents : Mr. A. Roy, Counsel



ORDER

Per Bidisha Banerjee, Judicial Member

Thirty four applicants have preferred this application to seek the following reliefs:-

"(a) Leave may be granted to the applicants to file this application jointly under Rule 4(5)(a) of the Central Administrative Tribunal (Procedure) Rules, 1987 as the applicants have a common grievance;

(b) To quash and/order set aside the impugned office letter dated 25th September, 2018 issued by the Under-Secretary to the Government of India, Ministry of Finance, Department of Revenue, Central Board of Indirect Taxes & Customs whereby the said authority directed that the persons concerned those who are not party in the proceeding in any court matter, they cannot be given the benefit of Grade Pay of Rs. 5400/- which is a discrimination and violation of Article 14 and 17 of the Constitution of India being Annexure A-12 of this original application.

(c) To quash and/or set aside the impugned office letter dated 16th November, 2018 issued by the office of the Principal Commissioner, Central GST and Central Excise, Kolkata North Commissionerate communicated that they are unable to process re-fixation of pay due to unavailability of the proper order or guidelines from the CBIC/DoPT, New Delhi or the competent authority being Annexure A-15 of this original application which is a misleading statement as because by way of gazette notification dated 29th August, 2008 and the Circulars dated 11.2.2009 and 21.11.2008 being Annexure A-2 and A-3

and A-4 of this original application, the higher authority had made it clear that if the officer completes 4 years on a dated after 01.01.2006, he will be given non-functional upgradation from such date on which he completes 4 years in the pay scale of Rs. 7500-12000 (pre-revised).

(d) To quash and/or set aside the impugned office letter dated 25th February, 2019 issued by the Director, Government of India, Ministry of Finance, Department of Revenue, Central Board of Indirect Taxes & Customs communicated to Zonal Principal Commissioner of Central Tax, Hyderabad Commissionerate with request to implement the common orders of Hon'ble Tribunal on the same issue dated 27.8.2018 in and 16.11.18 in respect of the petitioners only those who were the party in the proceeding. Which is highly discriminatory and in violation of Article 14 and 17 of the Constitution of India – being Annexure A-16 of this original application which is hostile discrimination of Article 14 and 16 of the Constitution of India.

(e) To quash and/or set aside the impugned office order dated 22.2.2019 issued by the Commissioner of CGST & CX, Siliguri Commissionerate by which the claim of the applicants has been rejected by stating that the benefit of NFG of Grade Pay of Rs. 5400/- to the officers who has completed 4 years continuous service in the Grade Pay of Rs. 4800 may not be allowed until final direction/clarification received from the Board (or Cadre Control Authority) in this matter being Annexure A-19 of this original application.

(f) To pass an appropriate order direction upon the respondent authority to give the benefit of Grade Pay of Rs. 5400/- in favour of the present applicants on non-functional basis with effect from the date on completion of continuous service of 4 years in Grade Pay of Rs. 4800/- in PB-2 in terms of the gazette notification dated 29th August, 2008 and the circulars dated 21st November, 2008 issued by the Ministry of Finance, Department of Revenue, Central Board of Excise & Customs along with all consequential benefits in the light of the direction rendered by the Learned Tribunals, Hon'ble High Courts and Hon'ble Supreme Court in judgment and order dated 4.11.2015 passed by the coordinate bench of the Central Administrative Tribunal, Chandigarh bench in O.a. No. 060/01044/2014 and O.a. No. 060/0018/2015 and the judgment and order dated 8th December, 2016 passed by the Division Bench of the Hon'ble High Court of Kerala at Ernakulam in OP (CAT) No. 276 of 2010 (Z) and the order passed by the learned Central Administrative Tribunal, Allahabad Bench dated 6th December, 2018 in O.A. No. 1318 of 2018 and the judgement and order passed by the Division Bench of the Hon'ble High Court of Judicature at Madras dated 06.09.2010 in WP No. 13225 of 2010 whereby the Hon'ble High Court of Judicature at Madras also taken the same view by directing the respondents to extend the benefit of Grade Pay of Rs. 5400/- in favour of the similarly circumstanced employees and the judgment and order dated 10.10.2017 passed by the Hon'ble Supreme Court in Civil Appeal No. 8883 of 2011 by which the Hon'ble Apex Court also upheld the decision rendered by the Hon'ble High Court of Judicature at Madras in WP No. 13225 of 2010 and the order passed by the Division Bench of the Hon'ble High Court in Writ Petition No. 39218 of 2012 and the same view has been taken by the Hon'ble High Court as per the direction of the Hon'ble Supreme Court and the order passed by the Learned Central Administrative Tribunal, Allahabad Bench dated 6th December, 2018 in O.A. No. 1318 of 2018 whereby the Learned Central Administrative Tribunal, Allahabad Bench also passed an order by directing the respondents to extend the benefits of judgment in favour of the similarly circumstanced persons who approached before that Tribunal within a specific time.

(g) to declare that the applicant is the similarly circumstanced person vis-à-vis to the employees those who are parties in the proceeding in the various proceedings before the Hon'ble Tribunal as well as High Courts and Hon'ble Supreme Court and is entitled to get the Grade Pay of Rs. 5400/- those who is Group-B officers of Departments of Posts, Revenue etc, will be granted Grade



Pay of Rs. 5400/- in PB-2 on non-functional basis after 4 years of regular service in the grade pay of Rs. 4800 in PB-2 with effect from 1.10.2015 along with all consequential benefits vis-à-vis to the other similarly circumstances person who got the same in view of the various decisions of this Hon'ble Tribunal. Therefore, denial of the same benefit of the present applicant based on the clarifications issued by the Government of India was contrary to the gazette notification dated 29th August, 2008 and the Circular dated 21.11.2008 being Annexure A-2 and A-3 of this original application. Despite the fact that present applicant has made representations before the concerned authority individually before the concerned respondents by relying upon the various orders passed by the Learned Central Administrative Tribunals, High Courts and Hon'ble Supreme Court which has not been considered by the same respondent which is a clear violation of Article 14 and 16 of the Constitution of India and which is to be considered in the light of the implementation order in the case of Mr. Shiladitya Maitra and others vide office order No. 286/2019 dated 06.12.2019 being Annexure A-21 of this original application.

(h) To pass an appropriate order directing upon the respondent authority to grant the Grade Pay of Rs. 5400/- to the post of Superintendent in terms of the various orders passed by the Learned Central Administrative Tribunal, High Courts and Hon'ble Supreme Court with effect from 01.10.2015 in the Grade Pay of Rs. 5400/- along with all arrear consequential benefits in favour of the present applicant."

2. Ld. counsels were heard and records were perused.
3. The applicants have preferred M.A.No.350/234/2020 seeking liberty for joint prosecution, which is allowed as the applicants are identically aggrieved.
4. The O.A was taken up for disposal at the admission stage itself with the consent of the parties.
5. Case of the applicants in a nutshell is that they are serving as Superintendent of Central Excise (presently CGST & CX, Group B post) under the administrative control and authority of Respondent No.3. In terms of a notification dated 29.08.2008 Group 'B' officers of Department of Posts and Revenue would be granted a Grade Pay of Rs.5400/- in PB-2 on non-functional basis after 4 years of regular service in the Grade Pay of Rs.4800 in PB-2, whereas the applicants despite completion of 4 years service in the Grade Pay of 4800/- in PB-2 have not been allowed the Grade Pay of Rs.5400/-. The applicants would also allege that in terms of a decision of Hon'ble High Court of Adjudicature at Madras in WP13225



of 2010, Grade Pay of Rs.5400/- should be extended in favour of all similarly circumstanced employees which decision was upheld by Hon'ble Apex Court in Civil Appeal No.8883 of 2011 and similar orders have been implemented throughout the country on the basis of decisions rendered by the benches of the Tribunal as well as the Hon'ble High Courts. The applicants are aggrieved as their representation has failed to elicit any response and the respondents' Department of Revenue vide order dated 25.02.2019 has directed implementation only in case of applicants before the Hyderabad Bench. However, admittedly the orders in one O.A.350/358/2019 have been implemented by Respondent No.3 vide its order dated 06.12.2019. Therefore, the applicants would pray for disposal of their pending representations in the light of the said orders, for identical relief.

6. Ld. counsel for the respondents would very fairly admit such implementation and would not object to consideration and disposal of pending representations in the light of such orders.



7. As no fruitful purpose would be served by calling for a reply in the matter as the representations of the applicants are yet to be disposed of, and as no impugned order is under challenge, we dispose of the present O.A. with direction upon the Respondent No.3, the Principal Chief Commissioner of CGST and CX, Kolkata Zone, or any other competent authority, to consider the representations of the applicants in the light of the decisions supra and to dispose them of in accordance with law within 4 months from the date of receipt of a copy of this orders with a reasoned and speaking order to be communicated to the applicants immediately thereafter. It is made clear that we have not entered into the merits.

8. It goes without saying that, for parity of reasons, in the event the applicants stand on the same footing as applicants in other OAs referred to supra, they would deserve identical reliefs as extended to their counterparts in the said matters.

9. The present O.A. accordingly stands disposed of.

10. The applicants however shall bear individual court fees.

(Dr. Nandita Chatterjee)
Administrative Member

(Bidisha Banerjee)
Judicial Member

sb

