

**CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH, AHMEDABAD.**

OA No.384/2021

This the 29th day of September, 2021.

**Coram : Hon'ble Shri Jayesh V.Bhairavia, Member (J)
Hon'ble Dr. A.K.Dubey, Member (A)**

Bhagesh Lakhani S/o. Shri Shivdayal
Male, Age : 51 years,
Superintendent of CGST (Group-B), CGST, Gandhinagar
Residing at : 07, Urvashi Bunglows, Maya Cinema Road
Kubernagar, Ahmedabad 382 340..... Applicant

(By Advocate : Ms. Harshal N.Pandya)

VERSUS

- 1) Union of India
Notice to be served through:
The Secretary, Department of Revenue,
Ministry of Finance,
North Block, New Delhi – 110001
- 2) The Central Board of Indirect Taxes
Notice to be served through:
The Chairman, CBIC
Ministry of Finance, Department of Revenue,
New Delhi- 110 001.
- 3) Chief Commissioner of CGST & Central Excise, Ahmedabad
Zone, 07th Floor, GST Bhawan, Revenue Marg, Ambawadi,
Ahmedabad-380015
- 4) Commissioner of CGST & Central Excise, Gandhinagar IIInd
Floor, Custom House, Navrangpura, Ahmedabad-380 009.
- 5) Assistant Commissioner (CAO) of CGST & Central Excise
Gandhinagar, IIIrd Floor, Jivabhai Mansion, Ashram Road,
Ahmedabad 380 009.
- 6) Commissioner of Customs
Office of the Commissioner of Customs, Kandla
Kandla Port, Kutch – 370 210..... Respondents.

ORDER (ORAL)

Per : Hon'ble Shri J.V. Bhairavia, Member (J)

1. In the instant OA, counsel for the applicant mainly submits that the applicant while working as a Superintendent of CGST Gandhinagar submitted the application dated 28.06.2021 for revision of fixation of his pay on grant of NFU in the Grade Pay of Rs.5400 in PB-II addressed to the Chief Accounts Officer, CGST Gandhinagar (Annexure A/9). In response to it, vide letter dated 10.09.2021, the respondent No.5 i.e. Assistant Commissioner (CAO) of CGST & CE, Gandhinagar conveyed to him that the Office had revised his pay and issued revised pay fixation order dated 16.7.2021. Vide said order dated 16.7.2021, the applicant herein was granted the Grade Pay of Rs.5400/- in PB-II as NFU by the competent authority. It is further noticed that the Office had processed the arrears bill as per revised pay fixation order and submitted in the office of PAO for payment. In turn, PAO's office intimated as under :

"It may be clarified that whether the NFG granted on 16.10.2017 on completing 04 years in the GP-4800 has been given on judicial direction or not, if not then NFG may be granted after completion of four years from regular promotion of Supdt. and recovery may be initiated."

2. Accordingly, the applicant was requested to provide order of Court/CAT vide which he was granted /allowed the Grade Pay of Rs.5400/- in PB-II upon completion of four years' regular service in the Grade Pay of Rs.4800/- in PB-II at the earliest, otherwise recovery may be

initiated as per rules. On receipt of the said letter dated 10.09.2021, the applicant herein submitted his detailed representation dated 13.09.2021 wherein the applicant had categorically stated that since the department had already given him the benefit of Grade Pay of Rs.5400/-, the question of filing of any case for the said benefits did not arise at that time. As such, there was no need for filing the appeal at the material time. For the said ground and also the ground stated in his reply, the applicant requested the respondents to look into matter, re-examine issue, refer the matter to the Commissioner, Chief Commissioner or CBIC for legal opinion, if required, to avoid and reduce litigations in future. The said representation of the applicant as such is pending decision. Counsel for the applicant, Ms. Harshal N.Pandya submits that apprehension of the applicant is with regard to initiation of the recovery against him. Hence, this OA.

3. Counsel for the applicant further submits that the applicant was granted Grade Pay of Rs.5400/- in PB-II by way of NFU w.e.f. 16.10.2017 on completion of four years of service as Superintendent in the Grade pay of Rs.4800/- by the department itself. This was as per extant rules and there was no need to approach this Tribunal for the same. As such, the observation of PAO and the respondents is with regard to recovery to be initiated, if the grant of NFU/ NSFG is not based on any judicial order. Therefore, the respondents are required to restrain for issuance of any coercive order of recovery.

4. We have heard the counsel for the applicant at length and perused the materials on record.
5. Considering the aforesaid discussion, we deemed it fit to dispose of this OA at the admission stage by directing the respondent No.4 to consider pending representation dated 13.9.2021 in accordance with the rules under the provision of F.R. and pass speaking order. Till such order is passed, no recovery shall be instituted against the applicant on the very same subject.
6. In view of the above, the OA stands partly allowed. No costs.

(A.K.Dubey)
Member (A)

(J.V.Bhairavia)
Member (J)

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