

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH
HYDERABAD**

O.A. No.021/0613/2019

Date of Order :12.07.2019.

Between :

1. R.Satyanarayana, s/o late R.Nageshwara Rao (Group-B),
Aged 53 yrs, Occ:Supdt., Central Tax and
Customs, Audit-I Commissionerate, Ramanthapur,
Hyderabad.

2. K.R.Balaji Naik, s/o late Lakshme Naik,
Aged 54 yrs, Occ:Supdt., Central Tax and
Customs, Audit-I Commissionerate, Ramanthapur,
Hyderabad.

...Applicant s

And

1. The Union of India, M/o Finance,
Dept. Of Revenue, North Block,
New Delhi, rep., by its Secretary,

2. Central Board of Customs and Central Excise/
Central Board of Indirect Taxes and Customs,
North Block, New Delhi, rep., by its Chairman.

3. Chief Commissioner, Customs, Central Tax,
Central Excise & Service Tax, Basheerbagh, Hyderabad.

4. The Principal Commissioner, Customs, Central Tax,
Central Excise & Service Tax, Hyderabad GST
Commissionerate (Cadre Controlling Authority), GST
Bhavan, Hyderabad.

... Respondents

Counsel for the Applicants ... Mr.N.Vijay

Counsel for the Respondents ... Mrs.Bharathi, Addl.CGSC

CORAM:

THE HON'BLE MR.B.V.SUDHAKAR, MEMBER (ADMN.)

ORAL ORDER

BY B.V.SUDHAKAR, MEMBER (ADMN.)

The applicants have worked as Superintendents with effect from 2008 in the Respondents' Organization. OA has been filed claiming that they should be placed in the Grade Pay of Rs.5400/- on completion of four years of service in the Inspectors' cadre as per Central Civil Services (Revised Pay) Rules, 2008. Respondents having not done so, has led to the filing of the OA.

2. Learned counsel for the applicants has submitted that the same issue was dealt by the Hon'ble Madras High Court in W.P.No.13225/2010 wherein, vide order dated 06.09.2010, suitable relief was granted. Para 7 of the said order is extracted hereunder:

"7. We are unable to agree with this clarification given by the Under Secretary to Government of India, since in an earlier clarification dated 21.11.2004 of the Deputy Secretary to Government of India, it was clarified as to how the 4 year period is to be counted for the purpose of granting non-functional upgradation to Group-B Officer, i.e., Whether the 4 year period is to be counted with effect from the date on which an officer is placed in the pay scale of Rs.7,500-12,000 (Pre-revised) or with effect from 1.1.2006, i.e. the date on

which the recommendation of the 6th CPC came into force. It was clarified that the 4 year period is to be counted with effect from the date on which an officer is placed in the pay scale of Rs.7,500-12,000 (Pre-revised)."

Learned counsel also submits that the issue was carried over to the Hon'ble Supreme Court, vide Civil Appeal No.8883/2011 and the same was dismissed vide order dated 10.10.2017. It is also adduced by the learned counsel for the applicants that when a review petition was moved, the same fate was met in October 2018. It is also not out of place to state that the issue was adjudicated by this Tribunal in O.A.Nos.1238/2018 and 1239/2018, wherein it was directed to provide the relief as per Central Civil Services (Revised Pay) Rules, 2008, and keeping in view the judgment of the higher judicial forums. The learned counsel for the applicants informs that the respondents have implemented the order vide letter dated 07.06.2019.

3. Learned counsel for the applicants further submitted that the respondents are taking the stand that adhoc service cannot be considered for providing financial relief sought for, though as per rules on the subject, whenever an officer, who while working on adhoc basis in a post, gets regularized, then the period of service rendered in the adhoc post shall also be considered to reckon the length of service.

4. Heard Mr.N.Vijay, learned counsel for the Applicants, and perused the records as well as the material papers submitted.

5. As is evident from the facts stated above, the issue has been covered by the judgment of the superior judicial forums and also by the finding of the Tribunal in the aforementioned OAs. Therefore, it would be apt and proper to direct the respondents to consider the case of the applicants keeping in view the orders of the Hon'ble High Court and the Hon'ble Supreme Court as well as reckoning the fact that the respondents have already implemented the judgment in respect of some other employees in OA.Nos.1238/2018 and 1239/2018. The direction in O.A.No.1239/2018 is as under:

"7. The issue has therefore been finally adjudicated and no longer resintegra. 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.

8. Consequently, the proceedings issued by the respondents vide F.No.A-26017/98/2008-Ad.II.A, dated 16.09.2009 are set aside. The respondents are directed to grant Grade Pay of Rs.5400/- to the applicants with effect from the date of completion of regular service of 4 years in the Grade Pay of Rs.4800/-."

6. Coming to the aspect of considering the service rendered on adhoc basis to be included in the total length of service, the same is fully covered by the observation of the Hon'ble Supreme Court in *Direct Recruit Class II Engineering Officers' Association v. State of Maharastra* (1990 (2) SCC 715). Thus, by adding the adhoc service rendered, applicants will have the requisite length of service to be granted the relief sought.

7. The applicants have submitted representations dated 14.05.2019 to the respondents stating the grounds on which their claim needs to be considered. Respondents are directed to dispose of the representations of the applicants by issuing a reasoned and speaking order, keeping in view the facts stated in the aforesaid paragraphs, within a period of eight weeks from the date of receipt of the order.

8. OA is accordingly disposed of at the admission stage. There shall be no order as to costs.

(B.V.SUDHAKAR)
MEMBER (ADMN.)

Dated: this the 12th day of July, 2019

DSN.