

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...
ORIGINAL APPLICATION NO.060/00541/2019
Chandigarh, this the 22nd day of May, 2019
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CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)

1. Hardish Kumar Gill s/o Late. Sh. Lachhman Singh age 50 years working as Superintendent o/o Central GST Commissionerate, OB-32, Rail Head Complex, Jammu-180002 (r/o 4098, Near Bal Bharti Public School, Phase-II, Urban Estate, Dugri, Ludhiana-141013)
2. Vijay Kumar Gupta s/o Sh. Jagdish Rai age 52 years working as Superintendent o/o CESTAT, SCO 147-148, Sector 17C, Chandigarh, 160017 (r/o 120-A, Shastri Nagar, Ludhiana-141002).
3. Samee Jan S/O Late Bashir Ahmad Shah Age 53 Years working as O/O Gousia Colony, Lane No. 2, Naseem Bagh, Hazratbal, Srinagar-190006 (r/o CGST Division, Jammu-II, OB-32, Rail Head Complex, Jammu-180004).
4. Shaheen Bashir s/o Bashir Ahmad Kitaba age 52 years working as Superintendent o/o CGST Range I&V, Division Jammu-I, 43, Ashok Nagar, Satwari Chowk, Jammu-180001 (r/o Al-Hamza Colony, Upper Buchpora, Srinagar, J&K-190006)
5. Mubeena Akhtar S/O Gulam Ahmad Bhat Age 53 Years Years Working As Superintendent O/O CGST Division, Srinagar, HOTEL MINI IKHWAN, BISHAMBAR NAGAR, SRINAGAR. (J&K)-190001 (R/O Majid Bagh, Sanat Nagar, Srinagar, J&K-190005)
6. SARJAN AHMAD SHAH s/o GH. MOHD SHAH age 54 years working as Superintendent o/o CGST Division, Srinagar, HOTEL MINI IKHWAN, BISHAMBAR NAGAR, SRINAGAR. (J&K)-190001.

7. Gurvinder Singh S/O Late Sh. Joginder Singh Age 49 Years Working As Superintendent O/O Trade Facilitation Centre, Salamabad, Uri, Dist. Baramulla (J&K) Pin-193123 (R/O #4925, PANCHAM SOCIETY, SECTOR 68, MOHALI (PUNJAB) PIN-160062)
8. Harsimrat Singh Brar s/o Sukhmendra Singh Brar age 47 years working as Superintendent o/o Review Branch, CGST Jammu, OB-32, Rail Head Complex, Jammu-180004 (r/o H.No.291, Sec.80, Mohali, 140308).
9. Moti Ram s/o Late Sh Atma Ram age 46 years working as Superintendent o/o Assistant Commissioner, CGST Div Ropar (Pb)-140001 (r/o House No 70, Old Indira Colony, Manimajra-160101 (UT Chandigarh)
10. Aruna Rana W/o Sh.Ashwani Kumar age 47 years working as Superintendent o/o CGST Division-I, Mohali, 2nd Floor, D-190, Phase-8-B, Airport Road Mohali-160071 (r/o 5690, Sec.38 West, Chandigarh-160036).
11. Tarun Kumar s/o Shyam Kumar Goyal age 50 years working as Superintendent o/o CESTAT, SCO 147-148, Sector 17C, Chandigarh, 160017 (r/o 13A, Friends Enclave, Kishanpura, Dhakauli, Zirakpur-160104).
12. Jaspreet Kaur s/o Late S. Gurnam Singh Dhaliwal age 48 years working as Superintendent o/o the Assistant Commissioner, CGST Div Ropar (Pb)-140002 (r/o # 222/ Phase-2, Sector 54 Mohali, Distt. Mohali (Punjab).
13. Raj Kumar s/o Jagir Dass age 45 years working as Superintendent o/o Directorate of GST Intelligence, Chandigarh, C.R. Building, Sector-17-C, Chnadigarh-160017 (r/o 4118-B, Sec.37-C, Chandigarh-160036).
14. Sukhvir Singh s/o aijan Singh age 47 years working as Superintendent o/o Customs Preventive Division, C-506, Sainik Colony, Jammu-180011 (r/o 1286, 15-B, Chandigarh-160015)

15. Davinder Singh S/O Mohan Singh Age 52 Years Working As Superintendent O/O Commissioner, Cgst Commissionerate, Jammu, Ob-32, Rail Head Complex, Jammu-180002 (R/O House No. 353, Phase-2, S.A.S.Nagar (Mohali)- 160055).
16. Narinder Singh s/o Rur Singh age 47 years working as Superintendent o/o CCU, Chandigarh, C.R. Building, Sector-17-C, Chnadigarh-160017 (r/o 6108, Modern Housing Complex, Manimajra, Chandigarh-160101).
17. Bhupinder Singh s/o Mohinder Singh (Retd.) age 48 years r/o 567, Sec.114, Ansal Golf Link, Mohali -140307

....Applicants

(Present: Mr. P.M. Kansal, Advocate)

Versus

1. Union of India through the Secretary to Ministry of Finance, Nehru Place, New Delhi, Delhi 110019.
2. The Central Board of Indirect Taxes and Customs, Ministry of Finance, Department of Revenue, New Delhi through its Chairman, North Block, New Delhi.
3. The Principal Commissioner of Central Excise & GST (Cadre Controlling Authority), Goods and Services Tax Commissionerate Chandigarh, Central Revenue Building, Plot No.19, Sector 17-C, Chandigarh – 160017.

..... Respondents

(Present: Mr. K.K. Thakur, Advocate)

ORDER (Oral)

SANJEEV KAUSHIK, MEMBER (J)

1. MA No. 060/00885/2019 is allowed and the applicants are allowed to join together to file this single O.A.
2. Applicants, in the present O.A. are aggrieved against the order dated 25.09.2018 (Annexure A-1) whereby their claim for grant of Non Functional Grade (NFG) based upon judicial

pronouncements has been rejected only on the plea that they were not a party to the proceedings before the Court in the relied upon cases.

3. Learned counsel submitted that the similarly placed persons approached this Tribunal for grant of NFG, as claimed in the present O.A., by filing O.A. No. 1044/2014 titled **Munish Kumar and Others Vs. Union of India and Others** and 060/00018/2015 titled **Sanjeev Dhar and Others Vs. Union of India and Others**, which have been allowed while relying upon a judgment dated 06.09.2010, passed by the Hon'ble High Court of Madras in the case of **M. Subramanian Vs. Union of India & Others**, affirmed up to the Hon'ble Supreme Court. The orders passed in the aforementioned cases have also been upheld by the Hon'ble Punjab and Haryana High Court while dismissing the Writ Petition filed at the hands of the respondents. Learned counsel contended that despite various judicial pronouncements in favour of the applicants, their claim for grant of similar benefits, being similarly situated employees, has been rejected. He argued that the plea of the respondents for rejecting the claim of the applicants that they were not a party in the relied upon cases, is bad in law, in view of ratio laid down in the case of **Union of India and Another Vs. Lalita S. Rao and Others** 2001 SC 1792 wherein it has been held that a decision of Court of Law should be implemented for all similarly situated employees whether party or not. On the

aforementioned pleas, learned counsel prayed that the impugned order be set aside.

4. Issue notice to the respondents.

5. At this stage, Mr. K.K. Thakur, Advocate, appears and accepts notice on their behalf. He is not in a position to support the impugned order. He also could not cite any law contrary to what has been held in the indicated case holding that the similarly placed employees should not be compelled to approach the Court of Law, for similar benefits.

6. In the wake of the above, no other option is left but to set aside the impugned order and direct the respondents to re-appreciate the claim of the applicants, in view of the law laid down in the relied upon cases. Ordered accordingly.

7. Upon such consideration, if the applicants are found similarly situated like the applicants in the relied upon cases, then the relevant benefits be granted to them, otherwise a reasoned and speaking order be passed on their claim, within a period of two months from the date of a copy of this order.

8. We expect from the respondents to also examine the cases of other similarly placed persons in the department to extend them the similar benefits, so that they need not approach the Court of law to seek similar benefits, as have already been granted to a specific category, otherwise this Court would be constrained to take coercive measures against the respondents for willful disobedience of the order of this Court.

9. Needless to mention, that the disposal of the O.A. shall not be construed as an expression of any opinion on the merit of the case.

No costs.

(SANJEEV KAUSHIK)
MEMBER (J)
Dated: 22.05.2019

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