

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...
**ORIGINAL APPLICATION NO.060/00577/2019
Chandigarh, this the 29th day of May, 2019**

...
CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)

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1. Tarsem Kumar S/o Sh. Khajan Singh, aged 60 years, Retired as Superintendent (Audit) Central Excise & GST Commissionerate, Central Revenue Building, Sector 17, Chandigarh – 160017 now resident of 4120 A, Customs Colony, Sector 37-C, Chandigarh – 160036.
2. Hari Ram s/o Sh. Bhuri Singh, aged 66 years Deputy Office Superintendent (Retired), E-II, Central Excise and GST Commissionerate, Central Revenue Building, Sector 17, Chandigarh- 160017. Resident of H. No. 2633, Sector 30-C, Chandigarh – 160036.
(Group B)

....Applicants

(Present: Mr. V.K. Sharma, Advocate)

Versus

1. Union of India through the Secretary to Government of India, Ministry of Finance, Department of Revenue, New Delhi – 110001.
2. Central Board of Indirect Tax and Customs, Ministry of Finance, Department of Revenue, New Delhi through its Chairman – 110001.
3. The Principal Commissioner, CGST an Central Excise Commissionerate Chandigarh –I, Central Revenue Building, Sector 17, Chandigarh - 160017

..... Respondents

(Present: Mr. Sanjay Goyal, Advocate)

ORDER (Oral)

SANJEEV KAUSHIK, MEMBER (J)

1. MA No. 060/00924/2019 is allowed and the applicants are allowed to join together to file this single O.A.
2. Applicants are before this Court seeking invalidation of order dated 10.08.2017 (Annexure A-1) whereby Non-functional Selection Grade (NFSG) granted in grade pay of Rs.5400 in PB-2 has been treated as financial upgradation under MACP Scheme. A direction

has also been sought to be issued to the respondents to grant the applicants 2nd financial upgradation under MACP in the grade pay of Rs.6600/- in PB-3, by ignoring the NFSG granted to them.

3. Heard learned counsel for the applicants.

4. Learned counsel submitted that the controversy as to whether the NFSG be treated as financial upgradation or not has already been settled by the Hon'ble High Court of Delhi vide judgment dated 20.12.2017 in the case of **Hari Ram and Another Vs. Registrar**

General, Delhi etc. (CWP No. 9357 of 2016) wherein the lordship while allowing the petition, recorded a categoric finding that the benefit of NFSG cannot be considered as a promotion for the purpose of financial upgradation under the MACP Scheme. He further submitted that one Prem Kumar, who is working in the same organization submitted a representation to grant him the benefit of judgment of the Hon'ble Delhi High Court in the case of Hari Ram & Another (supra), which was replied vide letter dated 25.07.2018 (Annexure A-10), stating that clarification sought from the Board office regarding applicability of decision to the employees of CBIC, is awaited. The O.A. (No. 060/01276/2017 filed by Prem Kumar and three other similarly placed persons has been disposed of being pre-mature, but a direction has been issued to the respondents to take a final view on the representation of the applicants therein in terms of ratio laid down in the case of Hari Ram & Another (supra). Learned counsel has prayed that the representations dated 06.05.2018 (Annexure A-9 colly) and dated 17.05.2019 (Annexure A-12), filed by the applicants, are pending

consideration, therefore, similar order be passed in this case as well,

5. Issue notice to the respondents.
6. At this stage, Mr. Sanjay Goyal, Sr. CGSC, appears and accepts notice. He does not object to the disposal of the case in the above manner. He prayed that the respondents be granted reasonable time so that the claim of the applicants be considered in the light of ratio laid down in the relied upon judgment of Hari Ram & Another (supra) and if they are found similarly placed like the applicants in the relied upon case, the benefits may be granted to them.
7. In the wake of above, the O.A. is disposed of, in limine, with a direction to the respondents to consider and decide the indicated representations of the applicants in view of ratio laid down in the relied upon case. If the applicants are found similarly situated like the applicants in the relied upon case, the benefits of that judgment be granted to them within two months, otherwise a reasoned and speaking be passed, and conveyed to the applicant.
8. 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: 29.05.2019**

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