

**CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD**

**OA/020/00157/2019
Date of Order : 15-02-2019**

Between :

1. A.Bhanumathi D/o Late A.V.Ramana,
Aged 54 years,Occ: Superintendent of Central Tax,
O/o.Guntur Division, Guntur, Andhra Pradesh.
2. B.C.S.Prasad S/o B.Dasaradharamaiah,
Aged about 60 years, Superintendent,
O/o.Nagole CGST Division, Nagole, Hyderabad, Telangana.
3. B.Anandarao S/o B.Arjunudu,
Aged about 54 years, Occ: Superintendent,
O/o.CGST Audit Circle, Nellore, Nellore Dist.
Andhra Pradesh.
4. Sanjeevkumar Komati S/o Ramulu Komati,
Aged 60 years, Occ: Superintendent Rtd.,
R/o. H.No.6-8-205, Namdevwada Nizamabad.
5. Ch.John Moses, S/o Late Ch.Chitteiah,
Aged about 55 years, Occ: Superintendent,
Office, CGST Commissionerate, Guntur,
Andhra Pradesh.
6. V.Anjaneyulu S/o Late V.V.B.L.Chary,
Aged about 50 years, Occ: Superintendent,
O/o.CGST Commissionerate, Guntur, Andhra Pradesh.
7. B.Chandrahasu S/o Late B.Samuel,
Aged about 53 years, Occ: Superintendent,
O/o. Hqrs., CGST Commissionerate, Guntur,
Andhra Pradesh.
8. Atluri Srilata D/o Late K.Satyanarayana,
Aged: 49 years, Occ: Superintendent,
O/o. Customs Commissionerate, Vijayawada,
Krishna District, Andhra Pradesh.
9. Pogula Asha D/o K.R.K.Murthy,
Aged about 54 years, Occ: Superintendent,
O/o.Hqrs. Office, CGST Commissionerate, Guntur,

Andhra Pradesh.

10.S.Padmaja Bala D/o S.Mohan Rao,
Aged about 49 years, Occ:Superintendent,
O/o. Amaravathi CGST Division, Vijayawada, Krishna Dist,
Andhra Pradesh.

11.G.V.B.G.TilakS/o Late G.Rajaraao,
Aged about 56 years, O/o. Superintendent,
O/o. Amaravathi Dvn., Vijayawada, Krishna Dist,
Andhra Pradesh.

12.M.Sharath Babu S/o M.Adinarayana,
Aged about 53 years, Occ: Superintendent,
O/o. Audit Circle – VI, Nalgonda, T.S.

13.K.P.Sagar S/o K.Vimoji Rao,
Aged about years, Occ : Superintendent,
O/o. Custom House, Kakinada, Andhra Pradesh.

14.Kodali Padmavathi D/o Late K.Tirupataiah,
Aged about 50 years, Occ: Superintendent,
O/o. Hqrs., CGST Commissionerate, Guntur,
Andhra Pradesh.

15.Bobburi Kalyani D/o Late R.Venkateswararao,
Aged 47 years, Occ: Superintendent,
O/o. Amaravathi Dvn., Vijayawada, Krishna District,
Andhra Pradesh.

16.K.Nagalinga Sastry S/o Late K.Venkatarathnam(Late),
Aged about 51 years, Occ: Superintendent,
O/o. Customs Commissionerate, Vijayawada, Krishna District,
Andhra Pradesh.

17.Chadalavada Srinivasararao S/o Ch.Raghunadha rao,
Aged about 49 years, Occ: Superintendent,
O/o. Customs Commissionerate, Vijayawada, Krishna Dist.
Andhra Pradesh.

18.S.Srinivasa Murthy S/o S.Hanumantharao,
Aged about 55 years, Occ: Superintendent,
O/o. Amaravathi CGST Division, Vijayawada, Krishna Dist.
Andhra Pradesh.

19.D.Venkataramaiah S/o D.Satyanarayana Murthy,
Aged about 56 years, Occ: Superintendent,
O/o. Nellore CGST Divisional Office, Nellore, Nellore Dist.

20.R.Surendrakumar S/o R.Venkatareddy,
Aged about 55 years, Occ: Superintendent,
O/o. Customs Preventive Unit, Nellore Dist. Andhra Pradesh.

21.Akula Sriharirao S/o A.Nageswararao,
Aged about 55 years, Occ: Superintendent,
O/o. Hqrs. Guntur CGST Commissionerate, Guntur,
Andhra Pradesh.

22.K.Bhaskara Rao S/o K.Sree Ramulu,
Aged about 55 years, Occ: Superintendent,
O/o. Krishnapatnam Custom House, Krishnapatnam Port,
SPSR Nellore Dist. Andhra Pradesh

23.A.Durga Bhavani D/o A.B.M.Krishna,
Aged about 48 years, Occ: Superintendent,
O/o.CFS, Balanagar, Hyderabad, T.S.

24.B.Radharani D/o Boddu Govindarao,
Aged 47 years, Occ: Superintendent,
R/o. 8-2-77/3, Aditya Towers, Old Bowenpally,
Secunderabad-11.

25.Mohammed Yousuf S/o Mohammed Abdul Khader,
Aged about 56 years, Occ: Superintendent,
O/o. Santoshnagar Range, Hyderabad Commissionerate,
Hyderabad.

26.N.Kanaka Laxmi, D/o Late V.Nagalingam, Aged 55,
Occ : Superintendent,
O/o. North Division, Dwaraka Nagar, Vizag, A.P

27.Y.Trinadh, S/o Late Y.Ramu,
Aged 50, Occ: Superintendent,
O/o. HQRS, CGST, Vizag,

28.J.Radha Krishna, S/o J.Lakshmaiah,
Aged 55, Occ: Superintendent, O/o. North division,
Bhimili Range, Vizag, AP

29.S.V.Mahalakshmi, D/o S.S.Prabhakar Murthy,
Aged 50, Occ: Superintendent, O/o. Central Division

Sheelanagar Range, Vizag, A.P

30.K.V.Suresh Kumar, S/o Late K.V.V.Satyanarayana,
Aged 55, Occ: Superintendent,
O/o. Central Div, Maharanipeta Range, Vizag, A.P

31.N.Durga Bhavani, D/o Late D.Papanna Sastry,
Aged 56, Occ:Superintendent,
O/o.Audit, CGST, Vizag, A.P

32. K.S.Satyanarayana, S/o K P V Prasad,
Aged 49, Occ:Superintendent,
O/o. Commissioner of CGST, Audit, Vizag,

33.M.J.I.Newton, S/o Late M.S.John,
Aged 52, Occ:Superintendent,
O/o. Yanam Range, Visakhapatnam, A.P

34. D.V.Raju, S/o D.Janardhana Raju,
Aged 54 years, Occ:Superintendent,
O/o. Sangareddy Division, Near Metro Station,
Miyapur, Hyderabad

35. T.S.Subramanyam, S/o T.S.Murthy,
Aged 52 years, Occ : Superintendent,
O/o. GST Commissionerate, Hyderabad.

36.B.V.Ramanamurthy S/o. B.Potharaju,
Aged 56 years, Occ: Suprintendent of Audit Commissionerate,
O/o. Central excise Building, Port area, Vizag, A.P.

37.K.Vijaya Sri, D/o Late K.S.Dharma Rao,
Aged 52, Occ: Superintendent,
O/o. Central Division, Visakhapatnam, A.P.

38.P.V.A.Narasimham,S/o Late P Ramakrishna Rao,
Aged 54, Occ: Superintendent,
O/o. Commissioner of CGST, Vizag, A.P

39.K.V.R.AmruteswaraRao, S/o Late K.V.Ramana,
Aged 57, Occ:Superintendent,
O/o.Vizianagaram Division,

40.R.V.KameswaraRao, S/o R.Latcanna,
Aged 51, Occ:Superintendent,
O/o.Audit, CGST, Vizag, A.P

41.S.Amarnath, S/o S.Narayana Rao,
Aged 48, Occ:Superintendent,
O/o. South Division, Visakhapatnam,

42.CH.Srinivasa Rao, S/o CH.Anjaneyulu,
Aged 50, Occ:Superintendent,
O/o. Customs Preventive Division, Vizag.

43.V.G.K.Sharma, S/o V.Sreerama Chandra Murthy,
Aged 49, Occ:Superintendent,
O/o. Commissioner of CGST, Vizag, A.P

44.A.Rama Rao, S/o A.L.Kantha Rao,
Aged 51, CPC, Occ:Superintendent,
O/o. Kakinada, East Godavari District, A.P

45. K .Vara Prasad, S/o K.Jeeva Ratnam,
Aged 52, Occ:Superintendent,
O/o. Vizianagaram Division,

46. B. Dwarakanath, S/o Purushothama Prasada Rao,
Aged 53, Occ:Superintendent, O/o. Audit, CGST, Vizag, A.P

47. T.Ravi Kumar, S/o T.Jayapal,
Aged 51, Occ:Superintendent,
O/o Commissioner of CGST, Vizag, A.P.

48.D.Satyanarayana Rao,S/o D.Chiranjeevi Rao,
Aged 52,CPC, Occ:Superintendent,
O/o. Custom House, Krishnapatnam, Nellore,
Nellore Dist, A.P

49. C.N.Anantha Narayana, S/o Late C.S.Narayan,
Aged 53, Occ:Superintendent, O/o. NACIN, Vizag, A.P

50.P.Satyavathi,D/o P.Ramanna,
Aged 57, Occ: Superintendent ,
O/o. CCO, Vizag

51. Jayasree Nagarajan, D/o R.Ramachandran,
Aged 54, Occ:Superintendent, O/o. South Division,
Gajuwaka Range,
Visakhapatnam, A.P

52.D. Ram Mohan Reddy S/o D.Narsimha Reddy,
Aged 45 years, Occ: Superintendent,
O/o. CGST Guntur Commissionerate, Guntur A.P.

53. V.Sunder S/o. T.K.Venkataraman,
Aged 61 years, Occ: Superintendent Rtd.,
R/o. H.No.10-170A, Maruthi Nagar, Near West Church,
Tirupati. A.P.

54. G. V. Ramesh S/o G.Pandurangarao,
Aged 50 years, Occ:Superintendent,
O/o. CGST Commissionerate Office,
Visakhapatnam, A.P.

55. S. Suryanarayana S/o S.Veerraju,
Aged 49 years, Occ: Superintendent,
O/o.Divisional Office, Central CGST Division,
Visakhapatnam, AP.

56. M. Papanna Sastry S/o M.V.Sastry,
Aged 49 years, Occ: Superintendent,
Occ: Customs Division, Kakinada, A.P.

57. K.Seshagiri Prasad S/o.K.Narsimha Rao (Late),
Aged 60 years, Occ: Superintendent Rtd.,
R/o. H.No.24A-5-20, Ashok Nagar, Eluru, A.P.

58. C.H.V.V.L.N.KamalakarRao S/o C.H.Rangarao,
Aged 47 years,Occ: Superintendent,
O/o.CGST Commissionerate Office, Visakhapatnam, A.P.

59. G.Anjaneya Prasad S/o G.Suryanarayana,
Aged 50 years, Occ: Superintendent,
O/o. Customs Divisional, Kakinada, A.P.

60. K.V.V.SubramanyamS/o K.Ramasastri,
Aged 56 years, Occ: Superintendent,
O/o.Customs Division, Kakinada, A.P.

61. Mandapati Srinivasa Rao S/o. M.CH. Suryanarayana,
Aged 55 years, Occ: Superintendent, O/o. Saroornagar GST
Divisonal Office, Nagole, Hyderabad.Applicants

AND

1. The Union of India
Ministry of Finance,
Department of Revenue, North
Block, New Delhi Represented by its Secretary.
2. 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, Hyderabad Zone, GST Bhavan, Hyderabad.
4. Chief Commissioner, Customs, Central Tax, Central Excise & Service Tax, Visakhapatnam Zone, Customs House, Visakhapatnam. ...Respondents

Counsel for the Applicant: Mr. N. Vijay

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

CORAM :

THE HON'BLE MR.JUSTICE R.KANTHA RAO, JUDICIAL MEMBER

THE HON'BLE MR.B.V.SUDHAKAR, ADMINISTRATIVE MEMBER

(Oral Order per Hon'ble Mr.Justice R.Kantha Rao, Judicial Member)

Heard Mr. N. Vijay, learned counsel for the applicants and Mrs. M. Bharathi, learned Additional Standing Counsel for the respondents.

2. The applicants were appointed as Inspectors and were granted ACP in the scale of Rs. 7500-12000 on the dates mentioned against their names in Annexure-I. As per the Government of India Resolution and CCS (RP) Rules, 2008 they are entitled for Non-Functional Grade pay of Rs.5400/- upon completion of regular service of 04 years in the Grade Pay of Rs.4800/- (pre-revised 7500-12000 scale). It is submitted that all the applicants have been granted Grade Pay of Rs.4800/- as per the Resolution Clause(iv) with effect from the dates mentioned against each of them.

3. Respondent No.2, however, issued proceedings dated 16.09.2009 with the approval of Department of Expenditure and Implementation where under at Clause (iv), it is observed that Non-Functional Grade Pay will not be granted to such of those Group-B officers who have got Grade Pay of

Rs.4800/- on upgradation under the ACP Scheme as contrary to the Government Resolution and CCS (Revised pay) Rules,2008.

4. Therefore, all these applicants filed the present OA to declare the action of the respondents in not granting Grade Pay of Rs.5400/- from the date of completion of regular service of 4 years in the Grade Pay of Rs.4,800/- (pre revised 7500-12000) as contrary to the CCS (Revised Pay Rules),2008 and also the judgment of Madras High Court in W.P. No.13225 of 2010 dated 21.10.2010 and confirmed by the Hon'ble Supreme Court in Civil Appeal No. 8883 of 2011 dated 10.10.2017 and consequently direct the respondents to forthwith pay 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/- (pre-revised 7500-12000).

5. The same issue was subject matter of challenge before the Madras High Court in W.P. No.13225 of 2010. The Madras High Court allowed the Writ Petition by order dated 06.09.2010 holding that the impugned executive instructions are contrary to the Government of India resolution and the CCS (Revised) Pay Rules, 2008 and directed the applicants therein to be granted Grade Pay of Rs.5,400/- from the date of completion of regular service of 4 years in the Grade Pay of Rs.4800/-. The said case carried in appeal to the Hon'ble Supreme Court vide SLP(C) No. 15627 of 2011 by the respondents and the Hon'ble Supreme Court dismissed the Civil Appeal confirming the order passed by the Madras High Court. The Review Petition (Civil) No. 2512 of 2018 in Civil Appeal No. 8883 of 2011 filed by the respondents was also dismissed by the Hon'ble Supreme Court. The Tribunal also allowed OA 1051/2010 filed by the employees of Central Excise Department questioning the very same proceedings issued by the 2nd respondent dated 16.09.2009.

6. The issue has therefore been finally adjudicated and no longer res integra. 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.

7. 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/-.

8. The OA is allowed accordingly. There shall be no order as to costs.

(B.V.SUDHAKAR)
ADMINISTRATIVE MEMBER

(JUSTICE R.KANTHA RAO)
JUDICIAL MEMBER

Dated : 15th February, 2019.
Dictated in Open Court.

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