

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION No.100/2019.

Date of Decision: 11.02.2019.

CORAM: DR. BHAGWAN SAHAI, MEMBER (A)
R.N. SINGH, MEMBER (J)

1. Central Excise Superintendents' Association
Mumbai, Through General Secretary,
Mumbai Unit, having address: A-603,
Vasanta Bldg., Dosti Vihar, Vartak Nagar,
Thane, State of Maharashtra – 400 606.
2. All India Association of Central Excise
Gazetted Executive Officers (Nashik Unit)
through: General Secretary-Nashik Unit,
Nashik, State of Maharashtra, Plot No.155,
Sector -34 NM, Jaishtha & Vaishakh, Cidco
Nashik 422 008.
3. Central Excise Gazetted Executive Officers'
Association, Aurangabad, Through General
Secretary, Aurangabad Unit, having address:
Annex Bldg., Ground Floor, CGST & Central
Excise Bldg., N-5, Town Centre, CIDCO,
Aurangabad, State of Maharashtra – 431 003.
4. All India Association of Central Excise Gazetted
Executive Officers (AIACEGEO) (Pune Associate
Unit) through General Secretary-Pune Unit,
having address 1st Floor, 'C' Wing, ICE House,
Sassoon Road, Pune 411 001.
5. Raman Kumar Sinha
Son of Late Shri Kamal Kishore Prasad
DOB 07.08.1969, Age 49 years 04 month,
Working as Superintendent (Group 'B' Post)
in the office of the CGST Audit-1 Commissionerate,
14th Floor, Air India Bldg., Nariman Point,
Mumbai. - 400 021.
R/at 503, 5th Floor, Prathmesh Apartment Co-operative
Housing Society, Plot No.126, Village and Post-
Kharghar, Taluka – Panvel, Dist. Raigad,
State of Maharashtra – 410 210.

6. Elapully Ramaswamy Narayanan
Son of Ramaswamy Elapully
DOB: 11.01.1963, Age 55 years 11 months,
Working as Superintendent (Group B Post),
in the office of the Commissioner of GST, Audit,
Thane, 4th Floor, GST Bhavan, Wagle Industrial
Estate, Thane (W), Thane. R/at 403, Sukhakarta
Co-op. Housing Society, Naupada, Bhaskar Colony,
Thane, Dist. Thane, State of Maharashtra,
- 400 602.
7. Chandrashekhar R. Vishwakarma
Son of Ramanandan Vishwakarma
DOB: 04.02.1965, Age 59 years 10 months,
Working as Superintendent (Group B Post),
GST and CX audit Commissionerate,
Gadkari Chowk, Old Agra Road, Nashik,
- 422 002. R/at House/Flat No.49, Vastu
Park Colony, Jai Bhawani Road, Village Nashik
Road, Taluka – Nashik, Dist. Nashik, State of
Maharashtra – 422 101.
8. Balu Tukaram Ahire,
Son of Tukaram Sukhdev Ahire,
DOB: 01.06.1965, Age 53 years 8 months,
Working as Superintendent (Group B Post),
CGST and Central Excise, Nashik Commissionerate,
Pawan Nagar, CIDCO, Nashik – 422 008.
R/at Plot No.B-304, 3rd Floor, Vista Project,
Wadala Shiwar, Indira Nagar, Taluka – Nashik,
Dist. Nashik, State of Maharashtra – 422 006.
9. Pritam Kanhaiyalal Naik
Son of Kanhaiyalal Bugaji Jadhav (Naik)
DOB: 18.11.1969, Age 49 years 01 month,
Working as Superintendent (Group B Post)
in the office of the Commissioner of GST Audit,
Nashik Commissionerate, Aurangabad Chapter,
N-5, CIDCO, Aurangabad 431 003.
R/at Plot No.10, Town Centre, N-1, Near Ravi
Masale, CIDCO, Aurangabad, Dist. Aurangabad,
State of Maharashtra, pin code 431 003.
10. Anil Sadashiv Doshatti
Son of Sadashiv Mallikarjun Doshatti,
DOB:17.03.1959, Age 59 years 09 months,
Working as Superintendent (Group B Post)
in the office of the Commissioner, CGST and

Central Excise, N-5, CIDCO, Aurgangabad -
431 003. R/at 811, Type-IV, GST Staff Quarters,
Town Centre, N-1, CIDCO, Aurangabad, State
of Maharashtra, pin code 431 003.

11. Shridhar Keshawrao Khisti
Son of Keshawrao Narayanrao Khisti
DOB: 15.06.1962, Age 56 years 6 months,
Working as Superintendent (Group B Post)
in the office of the Commissioner of Customs,
Pune 41/A, Sasoon Road, GST Bhavan, Pune -
411 001. R/at Flat No.1, 1st Floor, Plot No.46,
Prashant Society, Paud Road, Kothrud, Pune,
State of Maharashtra, pin code 411 038.
12. Kunj Nath Sinha
Son of Late (Shri) Priya Nath Sinha
DOB: 15.09.1967, age 51 years 3 months,
Working as Superintendent (Group B Post)
in the office of the Commissioner, CGST,
Pune-II, 1st Floor, GST Bhavan, 41-A,
Sasoon Road, Pune 411 001.
R/at F-404, Aishwaryam Green, Near Jagtap
Dairy, Wakad, Pune, - State of Maharashtra,
Pin Code 411 057.

... *Applicants*

(By Advocate Shri R.G. Walia)

VERSUS

1. Union of India, through
The Revenue Secretary to the Govt. of
India, Ministry of Finance, Department
of Revenue, North Block, New Delhi 110 001.
2. The Chairperson,
Central Board of Excise & Customs (CBEC)
& GST, Ministry of Finance, Dept. of Revenue
North Block, New Delhi 110 001.
3. The Principal Chief Commissioner of Central
Tax, CGST and Central Excise, Mumbai Zone,
Cadre Controlling Authority (CCA), 115,
M.K. Road, Central Excise Bldg. Churchgate,
Mumbai 400 020.
4. The Principal Chief Commissioner of
Central Tax, CGST and Central Excise,
Nashik Zone, Kendriya Rajaswa Bhawan:

R.G. Gadkari Chowk, Nashik 422 002.

5. The Principal Chief Commissioner of Central Tax, CGST and Central Excise, Aurangabad Zone, N-5, Town Centre, CIDCO, Aurangabad – 431 030.
6. The Principal Chief Commissioner of Central Tax, CGST and Central Excise, Pune Zone, ICE House, 41-A, Sasoon Road, Pune Zone – 411 001.

... **Respondents**

ORDER (Oral)

Per : R.N. Singh, Member (J)

Heard Shri R.G. Walia, learned counsel for the Applicant.

2. **MA No. 75/2019:** By this MA, the applicants pray for filing of the aforesaid OA jointly. Learned counsel for the applicants submits that Applicants Nos.1, 2, 3 & 4 are the Association of the employees who are identically placed and Applicants Nos.5 to 12 are the persons aggrieved by the in action of the respondents. In view of the facts and circumstances and the specific averment made by the applicants, **the MA is allowed.**

3. The Applicants have filed the present OA seeking the following reliefs:

"8.a) This Hon'ble Tribunal will be pleased to call for the records and proceedings of the case in respect of Non-Functional Grade pay and salary and after going through its propriety, legality and

constitutional validity be pleased to direct the respondents to grant Non-Functional Grade (NFG) Scale i.e. Pay Band-2 Rs.9300-34800+GP of Rs.5400/- after completion of 4 years of service of the applicants in Pay Band-2 Rs.9300-34800/-+ GP Rs.4800/-, with all consequential benefits of arrears of pay, pay fixation etc. to the Members of the applicant association and other applicants herein.

8.b) This Hon'ble Tribunal will be pleased to hold and declare that the Members of applicants-Association are entitled to get the benefit of the Non-Functional Grade (NFG) Pay Scale of PB2 Rs.9300-34800+Grade Pay Rs.5400/-(revised) after 4 years of service in PB2 Rs.9300-34800 + Grade Pay Rs.4800/-(revised) along with arrears and that the judgment dated 08.10.2018 in original application No.503/2017 will be applicable and effected to the Members of the Applicant Association and also of the applicants herein.

8.c) Any other and further orders as this Hon'ble Tribunal may deem fit, proper and necessary in the facts and circumstances of the case.

8.d) Cost of this original application be provided for."

4. Learned counsel for the applicants submits that the claim of the applicants is squarely covered by the judgment/order dated 06.09.2010 of the Hon'ble High Court of Judicature at Madras in **WP No.13225/2010 in M. Subramaniam Vs. Union of India & Ors.** Learned counsel for the applicants further submits that the judgment in **M. Subramaniam (supra)** has been implemented by the respondents and the respondents have compelled some identically placed persons who approached this Tribunal earlier also by

way of OA No.503/2017 which has been adjudicated by this Bench of the Tribunal vide order/judgment dated 08.10.2018 (Annex.A-1). The grievances of the applicants are that in spite of the aforesaid judgment and the applicants' representations, the respondents have not taken any action for redressal of the grievances of the applicants. In this regard, the learned counsel for the applicants invites our attention to one such representation i.e. dated 29.10.2018 (Annex.'A') and submits that the same is still pending consideration of the respondents. Learned counsel for the applicants submits that the applicants would be satisfied, if the present OA is disposed of with direction to the respondents to consider the aforesaid pending representations of the applicants including the one dated 29.10.2018 (Annex. 'A') and pass necessary orders keeping in view the aforesaid judgment of the Hon'ble High Court of Judicature at Madras in **M. Subramaniam (supra)** in a time bound manner.

5. Shri R.G. Walia, learned counsel for the applicants further invites our attention to the order/judgment dated 01.09.2017 of the Hon'ble Apex Court in *Government of NCT of Delhi & Anr. Vs. Somvir Rana (TGT ENG) & Ors.* (Annex.A-5) to contend that once the question, in principle, has been settled, it is only appropriate on the part of the Government of India to issue a Circular so that it will save the time of the Court and the Administrative Departments apart from avoiding unnecessary and avoidable expenditure.

6. In view of the aforesaid, the OA is disposed of with direction to the respondents to consider the representation of the applicants dated 29.10.2018 and dispose of the same by passing a reasoned and speaking order in accordance with law, within a period of eight weeks of receipt of certified copy of this order.

7. In the aforesaid terms, the OA is disposed of. No order as to costs.

(R.N. Singh)
Member (J)

(Dr. Bhagwan Sahai) 77
Member (A)

