

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

Original Application No.20/699/2019

Date of Order: 15.10.2019

Between:

1. A. Srinivas, S/o Late Subbarama Gopal
Aged 57 yrs, Gr. B
Occ: Supdt. Central Tax and Customs
Payakarao Peta Range
South Division, Visakhapatnam Executive Commissionerate,
Visakhapatnam.
2. P. Ananda Rao, S/o Late P. Venkateswarlu
Aged 59 years
Occ: Supdt. Central Tax and Customs
Payakarao Peta Range
South Division, Visakhapatnam Executive Commissionerate,
Visakhapatnam.
3. Y.V.S.Mahender S/o Y. Krishna Murthy Aged 55 years
Occ: Inspector, Central Tax and Customs
O/o Audit-I Commissionerate, Ramanathapur,
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 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, Hyderabad Zone, Hyderabad.

4. Chief Commissioner, Customs, Central Tax, Central Excise & Service Tax, Visakhapatnam Zone, Customs House, Visakhapatnam.
 5. The Principal Commissioner, Customs, Central Tax, Central Excise & Service Tax, Hyderabad GST Commissionerate (Cadre Controlling Authority), GST Bhavan, Hyderabad.
- ... Respondents

Counsel for the Applicant ...Mr. N. Vijay

Counsel for the Respondents ...Mr. V.Venu Madhav Swamy, Addl. CGSC

CORAM:

Hon'ble Mr. B.V. Sudhakar, Member (Admn.)

ORAL ORDER

2. The OA has been filed, challenging the action of the respondents in not granting Grade Pay of Rs.5400/- to the applicants.

3. Brief facts of the case are that the applicants are working as Superintendents in Central Excise and Customs Department. As per 6th Central Pay Commission and Government of India Resolution, Clause (x)(e), the Group-B officers of Department of Posts, Revenue etc are entitled for Grade Pay of Rs.5400 in PB-2 on non-functional basis after 4 years of regular service in the Grade Pay of Rs.4800/- However, CBEC, issued orders vide letter dated 16.09.2009, ordering that non-functional higher Grade Pay of Rs.5400/- shall not be granted to Group B officers who have got Grade Pay of Rs.4,800/- on upgradation under the ACP Scheme.

This letter was found to be contrary to the Government of India Resolution and CCS (Revised Pay) Rules, 2008 by the Hon'ble Madras High Court in Writ Petition No.13225/2010. When the Hon'ble Madras High Court Judgement was challenged, in Civil Appeal No.8883/2011 on 10.10.2017, Hon'ble Supreme Court dismissed the same. Applicants are aggrieved that despite the judicial pronouncements/dicta, respondents have not granted the relief sought. Applicants claim that representations made have not yielded any favourable results. Hence, the OA.

4. The contentions of the applicants are that the Government of India Resolution and the 6th CPC recommendations are in their favour. Besides, Hon'ble High Court of Madras has delivered a verdict, which supports their contention(s). Besides, CCS (Revised Pay) Rules, 2008, as adduced in Rules 3 and 4 support their cause. This Tribunal in OA No.1238 of 2018, has granted relief to similarly placed applicants on 21.12.2018.

5. Heard both the counsel and perused the pleadings on record.

6. At the very outset, the learned counsel for the applicants has stated that the case is fully covered by the Judgement of the Tribunal in OA 1238/2018, wherein it was held as under:

“7. The issue has therefore been finally adjudicated and no longer resintegra. As the Review Petition No.2512/2018 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/-“

7. (I) The applicants in the present OA are similarly placed, therefore, the relief sought has to be granted as per the observation of the Hon’ble Supreme Court in **Sub Inspector Roop Lal & Anr. v. Lt. Governor through Chief Secretary, Delhi & Others**, (2000) 1 SCC 644, as the order is binding. The relevant observations of the said case are extracted below:

“12. Precedents which enunciate rules of law form the foundation of administration of justice under our system. This is a fundamental principle which every Presiding Officer of a Judicial Forum ought to know, for consistency in interpretation of law alone can lead to public confidence in our judicial system. This Court has laid down time and again precedent law must be followed by all concerned; deviation from the same should be only on a procedure known to law. A subordinate court is bounded by the enunciation of law made by the superior courts. A coordinate Bench of a Court cannot pronounce judgment contrary to declaration of law made by another Bench. It can only refer it to a larger Bench if it disagrees with the earlier pronouncement. This Court in the case of *Tribhuvandas Purshottamdas Thakar v. Ratilal Motilal Patel*, AIR 1968 SC 372=[1968] 1 SCR 455 while dealing with a case in which a Judge of the High Court had failed to follow the earlier judgment of a larger Bench of the same court observed thus:

"The judgment of the Full Bench of the Gujarat High Court was binding upon Raju, J. If the

learned Judge was of the view that the decision of Bhagwati, J., in Pinjare Karimbhai's case and of Macleod, C.J., in Haridas `s case did not lay down the correct Law or rule of practice, it was open to him to recommend to the Chief Justice that the question be considered by a larger Bench. Judicial decorum, propriety and discipline required that he should not ignore it Our system of administration of justice aims at certainty in the law and that can be achieved only if Judges do not ignore decisions by Courts of coordinate authority or of superior authority. Gajendragadkar, C.J. observed in Lala Shri Bhagwan and Anr, v. Shri Ram Chand and Anr.:

"It is hardly necessary to emphasis that considerations of judicial propriety and decorum require that if a learned single Judge hearing a matter is inclined to take the view that the earlier decisions of the High Court, whether of a Division Bench or of a single Judge, need to be re-considered, lie should not embark upon that enquiry sitting as a single Judge, but should refer the matter to a Division Bench, or, in a proper case, place the relevant papers before the Chief Justice to enable him to constitute a larger Bench to examine the question. That is the proper and traditional way to deal with such matters and it is founded on healthy principles of judicial decorum and propriety."

Thus, there being a binding precedent laid down by the Coordinate Bench of this Tribunal it has to be adhered to as per the directions of the Hon'ble Supreme Court cited supra.

(II) Representation of the 3rd applicant is on record. Learned counsel for the applicants submitted that others have also submitted representations on similar lines.

(III) Hence, in view of the above, respondents are directed to dispose of the representations made by the applicants keeping in view the verdict of this Tribunal in OA 1238/2018 by issuing a speaking and reasoned order within a period of 8 weeks from the date of receipt of this order.

With the above directions, the OA is disposed. There shall be no order as to costs.

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

Dated, the 15th day of October, 2019

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