

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH
HYDERABAD**

**OA/21/584/2019 &
MA/21/506/2019**

Dated: 03/07/2019

Between

1. P.Venkata Surya Prakash,
S/o late P. Sriram Murthy, aged about 58 yrs.,
Occu: Assistant Director, NACIN, Hyderabad.
2. K. ManikRao,
S/o Shri K. PrabhakarRao, aged about 58 yrs.,
Occu: Assistant Director, NACIN, Hyderabad
3. Smt. V.V. PrasannaKumari,
D/o late V. Anjaneyulu, aged about 53 years,
Assistant Director, NACIN, Hyderabad
4. Sajid Ghori,
S/o Ahmed MohiuddinGhori, aged about 54 yrs.,
Occu: Assistant Director, O/o The Dte. General of Audit (GST),
HZU, Hyderabad
5. P. Shyam,
S/o late P. SriramachandraMurti, aged about 58 yrs.,
Occu: Assistant Commissioner,
O/o Chief Commissioner of Customs and Central Tax,
Hyderabad Zone, Hyderabad
6. V. Phanindra Chary,
S/o late V. PurushothamAcharya, aged about 58 yrs.,
Occu: Assistant Commissioner of Customs,
O/o The Principal Commissioner of Customs, Hyderabad
7. P. Sasidhar,
S/o late Ramana Rao, aged about 58 yrs.,
Occu: Assistant Commissioner of Central Tax,
O/o The Principal Commissioner of Central Tax,
Hyderabad GST Commissionerate, Hyderabad
8. M. Raghunath Reddy,
S/o late M. Venkat Reddy, aged about 59 years,
Occu: Assistant Commissioner of Central Tax,
Audit-II Commissionerate, Hyderabad

9. K. Balaji,
S/o K.N. Sundaram, aged about 58 yrs.,
Occu: Assistant Commissioner of Central Tax,
Medchal Commissionerate, Hyderabad
10. Arun Deshpande,
S/o Shahurao Deshpande, aged about 58 yrs.,
Occu: Assistant Commissioner of Customs and Specified Officer,
Visakhapatnam Special Economic Zone, Hyderabad
11. V. Timothy Paul,
S/o late V. Vincent Paul, aged about 57 yrs.,
Occu: Assistant Commissioner, Dte. General of Vigilance,
Hyderabad Zonal Unit, Hyderabad
12. B. Sai Veerendher,
S/o late B. Kishan Rao, aged about 58 yrs.,
Occu: Assistant Commissioner of Central Tax,
Audit II Commissionerate, Hyderabad
13. Mir Anwar Mohiuddin,
S/o late Mir Ahmed Mohiuddin, aged about 56 yrs.,
Assistant Commissioner of Central Tax, CESTAT, Hyderabad
14. A. Venkatesh,
S/o late A. Shamanna, aged about 58 yrs.,
Occu: Assistant Commissioner of Central Tax,
O/o. The Commissioner of Central Tax (Appeals), Guntur
15. K. Murali Krishna,
S/o K. Satyanarayana, aged about 57 yrs.,
Occu: Assistant Commissioner of Central Tax,
Visakhapatnam Commissionerate, Visakapatnam
16. T. Srinivasan,
S/o B. Triambakam, aged 56 years,
Occu: Assistant Commissioner of Central Tax,
Guntur Commissionerate, Guntur
17. V. Prakash Babu,
S/o late V. Prasada Rao, aged about 56 yrs.,
Occu: Assistant Commissioner of Central Tax,
Visakhapatnam Commissionerate, Visakapatnam
18. S. Khaja Hussain,
S/o S.A. Hussain, aged about 56 yrs.,
Occu: Assistant Commissioner of Central Tax,
Tirupati Commissionerate, Tirupati

19. C.N. Anantha Narayan,
S/o late C.S.Narayan, aged about 53 yrs.,
Occu: Assistant Director, NACIN, Visakhapatnam,
Address: 30-12-25/303, S.R. Enclave, Ranga Street,
Daba Gardens, Visakhapatnam

20. G. Sarveswara Rao,
S/o Venkateswarlu, aged about 58 yrs.,
Occu: Assistant Commissioner of Customs & Specified Officer,
Kakinada SEZ Limited, Kakinada

21. P.V. Ravanajee Rao, S/o late P. Krishna, aged about 70 yrs.,
Retd.Suptt.of Central Excise & Customs, Hyderabad,
R/o Plot No.22, H.No.5-9-64/22, Mahalakshmipuri (Excise Colony),
Yapral, J.J. Nagar Post, Secunderabad

22. V. Soma Sundara Sharma,
S/o late Sri V. Guru Murthy, aged about 69 yrs.,
Retd.Suptt.of Central Excise & Customs, Hyderabad,
R/o H.No.29-1433/4, Plot No.276, East Kakateyanagar,
Neredmet, Secunderabad ..Applicants

And

1. Govt. 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 of Central Taxes and Customs, Hyderabad Zone, GST Bhavan, Basheerbagh, Hyderabad.

4. Chief Commissioner of Central Taxes and Customs, Visakhapatnam Zone, Custom House, Port Area, Visakhapatnam.

5. Principal Commissioner of Central Taxes, Hyderabad GST Commissionerate, GST Bhavan, Basheerbagh, Hyderabad. ... Respondents

Counsel for the Applicant : Mr. N. Vijay
Counsel for the Respondents : Mr.V. Venu Madhav Swamy, Addl.CGSC

CORAM :

Hon'ble Mr. A.K. Patnaik, Judl. Member
Hon'ble Mr. B.V. Sudhakar, Admn. Member

ORAL ORDER
[A.K. Patnaik, Judl. Member]

Heard Mr. N. Vijay, learned counsel for the applicants and Sri V. Venu Madhav Swamy, learned Standing Counsel for the respondents.

2. MA/21/506/2019 filed for joining together in single O.A. is allowed and disposed of. Register the O.A.

3. The O.A. has been filed u/Section 19 of the Administrative Tribunals Act, 1985 with the following prayer:

ö.....to declare the action of respondents in not considering the representations made by the applicants on different dates in January, 2019 and subsequent reminders, seeking relief of second financial upgradation under MACPS on completion of twenty years of regular service from the respective dates of joining the service (and for officers who have completed twenty years before MACP Scheme became effective, from the date the said Scheme is effective), with Grade Pay of Rs.6600/- in PB-III and for granting third MACP with Grade Pay of Rs.7600/- in PB-III on completion of 30 years of regular service as illegal, arbitrary and violative of the provisions of MACP scheme dt. 19.5.2009 and judgements thereunder as accepted by respondent No.1 and consequently direct the respondents to grant the applicants second financial upgradation under MACPS on completion of twenty years of regular service with Grade Pay of Rs.6600/- in PB-III and for granting third MACP with Grade Pay of Rs.7600/- in PB-III on completion of 30 years of regular service along with all consequential benefits with interest and pass such other order or orders as this Hon'ble Tribunal may deem fit and proper in the circumstances of the case.ö

4. Learned counsel for the applicants submitted that the applicants are appointed in the Central Excise & Customs department as Inspectors in the years 1985-1987 and were granted ACP on completion of 12 years in the year

1999. It is submitted that the ACP Scheme was repealed and MACP Scheme was introduced wherein financial upgradation was provided every 10, 20 & 30 years of continuous service. The applicants were eligible to get the second financial upgradation w.e.f. 2006-2007 and third financial upgradation w.e.f. 2015-2017. They were promoted in the year 2000-2 as Superintendents and were granted higher Grade Pay of Rs.5400/- on completion of 4 years of service in the Grade Pay of Rs.4800/- as provided in the CCS (Revised Pay) Rules, 2008. The respondents treated this grant of higher Grade Pay of Rs.5400/- as financial upgradation and the plea of the applicants is that it cannot be treated as financial upgradation as that was provided in the CCS (Revised Pay) Rules, 2008. Another issue in the O.A. is that applicants in the Grade Pay of Rs.5400/- in PB-2 were granted third financial upgradation of Rs.5400/- in PB-3 which in effect has no benefit as only the pay band is changed but not Grade Pay and the same is contrary to the MACP Scheme.

5. Learned counsel for the applicants brought to our notice that being aggrieved in not getting MACP benefit as per rules and due to certain inconsistencies, the applicants jointly preferred a representation under Annex.A-XII to Respondents No.2,3,4 & 5 against which, the applicants had not received any response.

6. We find that there is substantial merit in the case. But as the Annex.A-XII representation preferred by the applicants is unanswered, therefore, keeping in mind the well settled decision of law as enumerated in a catena of judgements by the Hon'ble Supreme Court and the Hon'ble High Courts and this Tribunal, we dispose of this O.A., by directing the 1st

Respondent to dispose of the representation., keeping in mind the rules in force as well as taking into account all the points raised in the representation and after such consideration, if any anomalies are brought to the notice of the respondents, the same can be rectified with proper steps, within a stipulated period of six weeks. If the applicants are found eligible, disbursement of the amount to the applicants shall be made, within six weeks thereafter.

7. We also make it clear that if the applicants do not get any reply within a period of six weeks, they are granted liberty to file a fresh O.A. or C.P., as per their choice.

8. The O.A. is accordingly disposed of. There shall be no order as to costs.

(B.V. SUDHAKAR)
ADMN. MEMBER

(A.K. PATNAIK)
JUDL. MEMBER

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