

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION No.716/2019

Date of Decision: 21st November, 2019

CORAM: R. VIJAYKUMAR, MEMBER (A)
RAVINDER KAUR, MEMBER (J)

1. Central Excise Superintendents' Association, Mumbai
Through : General Secretary, Mumbai Unit, having address: A-603, Vasanta Building, Dosti Vihar, Vartak Nagar, Thane, State of Maharashtra, Pin – 400 606.
2. All India Association of Central Excise Gazetted Executive Officers (Nashik Unit) through : General Secretary, Nashik Unit, Nashik, State of Maharashtra.
3. Central Excise Gazetted Executive Officers' Association, Aurangabad
Through : General Secretary, Aurangabad Unit, having address: Annex Building, Ground Floor, CGST & Central Excise Building, N-5, Town Centre, CIDCO, Aurangabad, State of Maharashtra, Pin Code : 431 003.
4. Pradeepkumar Shankaran
S/o Late P. Shankaran
Date of Birth:08.02.1965 Age:54 years :09 months,
working as : Superintendent under CGST, Thane Commissionerate, and residing at :D-2/302, Vedant Housing Complex, Vartak Nagar, Pokhran Road – 1, Thane – 400 606
(Mobile No.9821184543)
5. Mahesh Krishna Parnekar
S/o Krishna Shankar Parnekar,
Date of Birth : 21.01.1970
age : 49 years 09 months

Retired as : Superintendent from
Central Excise, Mumbai – III, and
residing at : 504, Orion, B-Wing,
Cosmos Paradise, Opp.Devdayanagar
Phase-I, Pokhran Road No.1,
Thane West – 400 606
(Mobile No.9967440095)

6. S.K. Nanoti
S/o Shri Krishna Ambadas Nanoti,
date of birth : 22.08.1969
age : 50 years 02 months
working as : Superintendent,
under CGST and Central Excise,
Nashik Commissionerate,
and residing at : Flat No.04,
Shridarshan Apartment,
Near New Era School,
Govind Nagar, Nashik,
Pin Code:422 009.
7. R.N. Bhavar,
s/o Shri Nandu Bhaurao Bhavar,
date of birth : 30.07.1966,
age : 53 years 03 months
working as : Superintendent, under
CGST and Central Excise, Nashik
Commissionerate, and residing at :
Flat No.6, Siddhesh Residency,
Patil Nest, Anandvalli, Gangapur Road,
Nashik – 422 013.
8. C.B. Kathawate
s/o Shri Bapurao Kathawate,
date of birth “ 01.01.1960
age : 59 years 10 months
working as : Superintendent
under CGST and Central Excise,
Aurangabad Commissionerate, and
residing at : Staff Quarter No.7/7,
N-1, CIDCO, Town Centre, Aurangabad,
Central Excise Staff Quarter No.5/8,
(Mobile : 9823064261)
9. A.K. Shrivastava
s/o Shri Krishna Nand Lal,
date of birth : 12.08.1978,
age : 41 years, 02 months,

Working as : Superintendent
under CGST and Central Excise,
Aurangabad Commissionerate,
and residing at : Central Excise Staff
Quarter No.5/8, N-1, CIDCO,
Town Centre, Aurangabad.
(Mobile : 8600014292)

... *Applicants*

(By Advocate Shri R.G. Walia)

Versus

1. Union of India
Through : The Revenue Secretary,
Government 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,
Department 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
Building, 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 03.

... *Respondents*

(By Advocate Shri Rishi Kumar, proxy counsel for Shri B.K. Ashok)

ORDER (ORAL)

Per : Shri R. Vijaykumar, Member (A)

This application has been filed by three Associations of Superintendents and Gazetted Executive Officers of various units across the Mumbai Region alongwith some named applicants in representative capacity stating that, the affected parties of the applicants who have been earlier promoted as Superintendent and functioning in that capacity, are entitled to NFSG after completion of four years of service in that position. They state that similarly placed persons/officials in other Regions in Mumbai and other Region in Maharashtra and in other parts of the country have already received the benefits but they have not been accorded the benefits on the basis that the decision taken by the Courts in those matters were applicable only to the persons who had prosecuted those cases. In OA No.100/2019 decided on 11.02.2019, a similar claim had been made by reference to the decision of the Hon'ble High Court of Madras in Writ Petition No.13225/2010 (M. Subramaniam Vs. Union of India & Ors) which had been heard both in SLP

and in review by the Hon'ble Apex Court and dismissed and had, therefore, become final.

2. A similar order had also been passed by the Hon'ble Apex Court in Government of NCT of Delhi & Anr. Vs. Somvir Rana (TGT Eng) & Ors. on the basis of which, the applicants had argued that once the principle had been settled, it was necessary for the respondents to issue a general circular that could be enforceable by all administrative units across the country. Accordingly, the Original Application had been disposed of with directions on 11.02.2019 with directions to the respondents to pass a reasoned and speaking orders. The respondents have granted the benefits thereon in order dated 12.07.2019 (Annexure A-7) in order of Chief Commissioner of CGST & CS, Mumbai Zone 115, GST Bhavan, M.K. Road, Churchgate, Mumbai.

3. Learned counsel for the applicants submits that following these directions, the respondents have agreed in principle to the grant of the said benefit to the applicants in that OA. However, that has been denied in the present OA. Learned counsel for the

applicants also refers to recent decision of the Co-ordinate Bench of this Tribunal at Chandigarh in OA No.541/2019 dated 22.05.2019 wherein the respondents were invited to note that similarly placed employees should not be compelled to approach the Court of law for similar benefits and for that the court would have to take coercive measures for wilful disobedience and were granted two months to comply.

4. Learned counsel for the respondents was represented by proxy counsel Shri Rishi Kumar. He has submitted that he has not yet received any instructions on the matter although he has been asked to file vakalatnama.

5. In the foregoing circumstances, the respondents are directed to consider the cases of retired and working officers at Annexure A-8 of this application and to pass orders within eight weeks of receipt of a certified copy of this order and for similarly placed persons, to grant the benefits accordingly.

6. This Original Application is accordingly disposed of in the aforesaid terms. There shall be no order as to costs.

(Ravinder Kaur)
Member (J)

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(R. Vijaykumar)
Member (A)

JD
25/11/19

