



भारत सरकार

Govt. of India,

वित्त मंत्रालय, राजस्व विभाग

Ministry of Finance, Department of Revenue

मुख्य आयुक्त कार्यालय, वस्तु एवंसेवा कर एवं सी. टी. ए. विभाग,

Office of the Chief Commissioner, Goods and Services Tax & Customs

क्रेसेंस बिल्डिंग, महात्मा गांधी रोड, शिल्लॉंग- 793001

Crescens Building, M.G Road, Shillong-793001

दूरभाष/Tel.Nos.91-0364-2500131/2502052. फैक्स/Fax nos. 91-0364-2224747/2502047. ईमेल/Email: ceshillo@excise.nic.in

SPEAKING ORDER

Dated Shillong, the 15th December, 2017

Arising out of OA No. 040/00395/2015 filed by Shri Shivaji Chanda & Ors V/s UOI & Ors.

Brief Fact of the Case

The OA has been filed by the applicant Shri Shivaji Chanda, the then Superintendent (now Assistant Commissioner) along with 7 (seven) other Assistant Commissioners to set aside & quash the impugned Order dated 31-07-2015, impugned letter dated 14-11-2014 & letter dated 26-05-2015 & to grant Grade Pay of Rs. 6,600/- to the applicants from the date of completion of 30yrs. of regular service with monetary benefits in terms of Ministry of Finance's Order dated 27-05-2015 which has been issued in compliance with the judgement and Order dated 08-12-2014 in WP(c) No. 19024/2014 (Union of India Vs. R. Chandrashekharan).

All the applicants initially joined as Direct Recruit Inspectors. They were in due course promoted to the grade of Superintendent, and on completion of 4yrs service, Non-Functional Grade Pay of Rs.5,400/- in PB-2 with 3% increments were granted & finally 2nd ACP benefit was also granted in PB-3 with GP of Rs. 5,400/-. On completion of 30yrs service, they were considered for grant of GP of Rs. 6,600/-. It has been mentioned that GP of Rs. 6,600/- was sanctioned to all of the applicants except Sl.No.1 but the same has been subsequently withdrawn. The PAO, Dibrugarh has viewed that the benefit of Non-Functional Grade Pay with 3% increment having been granted to the Superintendent (Gr.B) on completion of 4 (four) years and 2nd ACP benefit also having been granted, they were thereafter not eligible for grant of 3rd MACP with Grade Pay of Rs. 6,600/-.

Discussion of Findings

The matter is similar to OA No. 416/2014 filed by Sh. Shubhrangshu Deb, Assistant Commissioner (now retired) and the said matter was accordingly referred by the Department to the DOP&T as per Order dated 08-12-2014 of the Hon'ble Madras High Court to issue a fresh circular to codify all the circulars issued earlier, explaining the nature & scope.

The Ministry vide F.No. A-23011/25/2015-Ad. II(A) dated 20-06-2016 issued clarification which is as reproduced below:-

"The matter regarding counting of non-functional Grade pay of Rs. 5,400/- in Pay Band-2 to the Superintendents as one financial upgradation for the purpose of MACP Scheme has subsequently been re-examined in consultation with Department of Personnel & Training (DOP&T). DOP&T has now advised in consultation with Department of Expenditure that the grant of non-functional grade pay of Rs. 5,400/- in PB-2 to the Superintendents needs to be counted as one financial upgradation for the purpose of MACP Scheme. DOP&T has drawn attention to the specific provision in Para 8.1 of Annexure-1 of OM No. 35034/3/2008-Estt.(D) dated 19th May, 2009 read with FAQ No. 16 which indicate that the Non-functional scale in Grade Pay of Rs. 5,400/- in PB-2 is to be treated as a financial upgradation under MACP Scheme. DOP&T has also advised that the court cases including the case of R. Chandrashekharan may be agitated / defended as per the MACP Scheme vide DOP&T O.M. dated 19.05.2009"

It was also mentioned in the said letter that based on the recent advice now tendered by DoP&T, the Board's letter of even number dated 26-05-2015 addressed to the Chief Commissioner, Central Excise, Chennai Zone in the case of Shri R. Chandrashekharan has been treated as withdrawn.

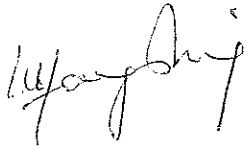
The CBEC vide F.No. A- 23011/29/2016-Ad.II(A) dated 08-07-2016 addressed to the Chief Commissioner, Shillong Zone reiterated the same fact as mentioned above in the case of Shri Shubhrangshu Deb, Assistant Commissioner and directed the Chief Commissioner, Shillong Zone to decide the matter in the light of the instruction contained in the Board's letter dated 20-06-2016.

In the instant case, the applicant No. 1, Sh. Shivaji Chanda was initially appointed as inspector on 27-04-1984 and was granted 1st ACP on 09-08-1999. He was promoted to Superintendent on 23-09-2003 and then granted NFG Pay of Rs. 5,400/- in PB-2 on completion of 4yrs service & again granted 2nd ACP in PB-3 with GP of Rs. 5,400/-. From the above, it is clear, that the Applicant No. 1 has already got 3 (three) benefits, and hence, the 3rd MACP is not eligible. Since, NFG on completion of 4yrs is treated as one financial upgradation hence, 2nd financial upgradation is not admissible w.e.f. 27-04-2014 in PB-3 with GP of Rs. 5,400/- which he is getting w.e.f. 27-04-2008 in the guise of 2nd ACP.

Order

In the light of the Ministry's above clarification, it is hereby held that the applicant No.1 of the above OA, Shri Shivaji Chanda, the then Superintendent (now Assistant Commissioner) has already got 3rd MACP benefit from the date of his initial joining in the grade of Inspector. He has no further MACP entitlement.

Accordingly, the grievance of the applicant is disposed of.


(W.L. HANGSHING)
Chief Commissioner

F. No. I(10)6/ET/CCO/SH/2017/8853-69
Copy forwarded for information and necessary action to:-

Date: 8 DEC 2017

1. The Commissioner, Goods and Services Tax & Central Excise, Shillong / Dibrugarh.
2. The Additional Commissioner, Customs (Prev.), N.E.R., Shillong.
3. The Additional Commissioner (P&V), GST&CX, Guwahati.
4. The Additional Commissioner (Law), Goods and Services Tax & Central Excise, Guwahati. *He is requested to apprise the Hon'ble CAT suitably.*
5. The Joint Commissioner, GST&CX, Shillong / Dibrugarh.
6. The Assistant Commissioner (P&V), GST&CX, Dibrugarh.
7. The Chief Accounts Officer, GST&CX, Shillong / Dibrugarh.
8. The Pay & Accounts Officer, Customs & Central Excise, Shillong / Dibrugarh.
9. Shri Shivaji Chanda, Assistant Commissioner.
10. The Superintendent (CIU-VIG), Goods and Services Tax & Customs, Shillong.
11. The Superintendent (Law), CCO, Shillong.
12. The Systems Officer, CCO, Shillong for uploading in the Departmental website.
13. Guard File.


(L. Beimopha)
Joint Commissioner