



भारत सरकार
GOVERNMENT OF INDIA
वित्त मंत्रालय, राजस्व विभाग
MINISTRY OF FINANCE, DEPARTMENT OF REVENUE
मुख्य आयुक्त का कार्यालय
OFFICE OF THE CHIEF COMMISSIONER
केंद्रीय माल एवं सेवा कर, केंद्रीय उत्पाद शुल्क और सीमा शुल्क, गुवाहाटी जोन
CGST, CENTRAL EXCISE & CUSTOMS, GUWAHATI ZONE
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Office Order No. 26 /2025

GCCO/I/(10)/2/2025-ADMN-O/o CC-CGST-ZONE-GUWAHATI

Dated Guwahati, 02-05-2025

In order dated 12.12.2024 passed by the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati in Original Application No. 040/00273/2024 filed by Sh. Debasish Bose-Vs- U.O.I & Ors, the Hon'ble Tribunal had directed the respondent authority to consider the pending representation of the applicant dated 29.09.2023 by treating this instant O.A as a part of representation and decide the same in the light of order dated 06.09.2010 passed by the Hon'ble High Court of Judicature at Madras in W.P (C) No. 13225/2010 (M. Subramaniam v/s UoI & Ors) as well as in the light of order dated 08.02.2023 passed in OA 272/2019, by passing a reasoned and speaking order within a period of 3 (three) months from the date of receipt of a copy of this order and had accordingly disposed of the O.A at the admission stage.

2. On perusal of the records, it was noticed that representation was received from Shri Debasish Bose, Superintendent (Retd.) requesting grant of Non-functional up-gradation in the Grade Pay of Rs. 5400 in PB-2 w.e.f the date of completion of 4 years of regular service by the officer in the Grade Pay of Rs. 4800 with all consequential benefits in the light of the judgement and order dated 08.02.2023 of the Hon'ble CAT, Guwahati Bench in O.A No. 040/272/2019.

3. On perusal of the representation of the applicant, it is observed that the officer has requested to extend the benefits of non-functional upgradation by placing reliance on the order passed by the Hon'ble CAT, Guwahati Bench vide order dated 08.02.2023 in O.A No. 040/0272/2019, which was filed for implementation of M. Subramaniam.

4. Taking into consideration the representation of the applicant, I proceed to examine the various instructions of DoPT and CBIC on the issue of grant of NFG to verify whether the present applicants are similarly placed officers.

4.1 The 6th Central Pay Commission gave various recommendations for fixing of pay of employees of the Government of India. The recommendations accepted by the Government were notified vide GSR 622 E dated 29.08.2008 as Central Civil Services (Revised Pay) Rules, 2008. As per Section II of the Central Civil Services (Revised Pay) Rules, 2008 it was informed that the revised pay structure mentioned in column (5) and (6) of the part of the Notification for the posts mentioned in column (2) have been approved by the Government. In Section II of the said Notification, it is laid down against Sl.No. 9, under the Heading Department of Revenue, Ministry of Finance that "Income Tax Officers/Superintendents/Appraisers etc. (Customs & Central Excise) placed in the Pay Scale of Rs. 7500-12000 would be granted Revised Pay Scale of Rs. 7500-12000 in Pay Band – 2 with Grade Pay of Rs. 4800." Further, it has been informed that they will be placed in Revised Pay Scale of Rs. 8000-13500 in PB-2 with Grade Pay of Rs. 5400 after 4(four) years. Section – I of Part-A of the First Schedule to the Rules, provides the Revised

Pay Bands and Grade Pays for the posts carrying the present scales in Group 'A', 'B', 'C', 'D' except posts for which different revised scales are notified separately. As per the same, the Revised Pay structure for employees in the Pay Scales of Rs. 7500-12000 has been notified as Rs 9300-34800 with Grade Pay of 4800.

4.2 Department of Expenditure vide GSR 622 (E) dated 29.08.2008 has specified that the Group 'B' officers of the Department of Revenue will be granted grade pay of Rs. 5400/- in PB-2 on non-functional basis after 04 years of regular service in the grade pay of Rs. 4800/- in PB-2. The Section II of Part C of GSR 622 (E) dated 29.08.2008 under Department of Posts Sl. No. 5 {Superintendent (Posts)} and under Ministry of Finance Sl. No. 9 (Income Tax Officers/Superintendent, Appraisers etc. (Customs & Central Excise) of the notification dated 29.08.2008 issued by the Department of Expenditure is reproduced for sake of convenience:-

"Group 'B' officers of Department of Posts, Deptt. of Revenue, etc. will be granted grade pay of Rs. 5400 in PB-2 on non-functional basis after 04 years of regular service in the grade of Rs. 4800/- in PB-2."

4.3 The CBIC vide letter F.No. A.26017/98/2008/Ad.IIA dated 21.11.2008 on the subject clarification regarding date of grant of NFU of Group B officers clarified as under

"As per Part C, Section -II of the CCS (Revised Pay) Rules, 2008 wherein under the heading Ministry of Finance, Department of Revenue, at Sr. No. 9, it was indicated that Superintendents, Appraisers etc. (Customs & Central Excise) [who are in the pre-revised scale of Rs. 7500-12000] shall be granted Grade Pay of Rs. 5400 in PB-2 [corresponding to pre-revised scale of Rs. 8000-13500], after 4 years of service. Further, in Clause (x)(e) of the RESOLUTION also, it was indicated that "Group B officers of the Department of Posts, Revenue etc. will be granted 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 in PB-2".

Further, the Department of Expenditure has clarified that the **4 year period is to be counted w.e.f the date on which an officer is placed in the Pay Scale of Rs. 7500-12000 (pre-revised)**. This meant that if an officer has completed 4 years on 01.01.2006 or earlier he will be given the NFU w.e.f 01.01.2006. However, if any officer completes 4 years on a date after 01.01.2006 he will be given NFU from such date on which he completes 4 years in the pay scale of Rs 7500-12000(pre revised).

4.4 A question was raised as to whether the officers who had got the pre-revised pay scale of Rs 7500-Rs 12000 by virtue of Financial up-gradation under ACP Scheme will also be entitled to the benefit of NFU on completion of 4 years in the pre-revised pay scale of Rs 7500-12000, in terms of recommendation of the 6th CPC. Subsequently, the Ministry vide letter F.No. A.26017/98/2008-Ad.IIA dated 11.02.2009 on the issue clarified that the matter has been examined in consultation with Department of Expenditure who have clarified the matter as under:

*"pre revised Pay scale of Rs 7500 –Rs 12000 could be granted to an officer **EITHER** on functional promotion to the post of Superintendent, Appraiser etc **OR** by way of financial upgradation under ACP. Thus, officers of the rank of inspectors could also have this pay scale due to financial upgradation under ACP. However, Non-functional up-gradation to the Grade Pay of Rs. 5400 in the Pay Band PB-2 can be given on completion of 4 years of regular service in the Grade Pay of Rs. 4800 in PB 2(pre-revised scale of Rs. 7500-12000) after regular promotion and **not on account of financial up-gradation due to the ACP**"*

4.5.1 In the case of one M. Subramaniam *supra*, Department had refused to grant grade pay of Rs. 5400 in Pay Band-2 on non-functional basis after four years of regular service in grade pay of Rs. 4800/- in Pay Band-2 based on the clarification vide letter F.No. A.26017/98/2008-Ad.IIA

dated 11.02.2009 stating that grade pay of Rs. 5400 need not be given to those who are drawing the salary of Superintendents by way of financial up gradation under ACP. Aggrieved by the same, the petitioner filed O.A No. 167 of 2009 before the Central Administrative Tribunal, Madras Bench, which dismissed O.A. on 19.04.2010 observing as follows:

*“The Tribunal, by relying upon the clarification dated 28.08.2008 of the Govt. of India, held that the petitioner cannot be equated to the posts, viz., Income Tax Officer/Superintendents, Appraisers, etc, though he was drawing the pay scale attached to the said posts by virtue of grant of financial up gradation in ACP Scheme and therefore, he is not entitled to the grade pay of Rs. 5400/- on the basis that he had completed four years of regular service in the pay scale of Rs. 7500-12000. According to the Tribunal, **unless the petitioner is promoted, he is not entitled for grade pay of Rs. 5400 and he cannot claim only by virtue of the benefits obtained under the ACP Scheme.**”*

4.5.2 Aggrieved by the dismissal of the aforesaid O.A:167 of 2009, Sh. M. Subramaniam filed W.P. No. 13225 of 2010 before the Hon'ble High Court of Judicature at Madras. The Hon'ble High Court of Judicature at Madras vide Order dated 06.09.2010 had made the following observations:

“...We are unable to agree with this clarification given by the Under Secretary to the Government of India, since in an earlier clarification dated 21.11.2004 of the Deputy Secretary to Government of India, it was clarified as to how the 04 year period is to be counted for the purpose of granting non-functional upgradation to Group 'B' Officer; i.e. whether the 04 year period is to be counted with effect from the date on which the officer is placed in the pay scale at Rs. 7500-12000 (pre-revised) or with effect from 01.01.2006 i.e, the date on which the recommendations of the 6th CPC come into force. It was clarified that the 04 year period is to be counted with effect from the date on which an officer is placed in the pay scale of Rs. 7500-12000 (pre-revised).

Thus, if an officer has completed 04 years on 01.01.2006, he will be given the non-functional up-gradation with effect from 01.01.2006 and if the officer completed 04 year on a date after 01.01.2006, he will be given non-functional up-gradation from such date on which he completes 04 year period in the pay scale of Rs. 7500-12000 (pre-revised), since the petitioner admittedly completed 04 year period in the pay scale scale of Rs. 7500-12000 as on 01.01.2008, he is entitled to the grade pay of Rs. 5400. In fact, the Government of India having accepted the recommendations of the 6th Pay Commission issued a GSR 622(E) dated 29.08.2008 granting grade pay of Rs. 5400 to Group 'B' Officers in Pay Band 2 on non-functional basis after 04 years of regular service in the grade pay of Rs. 4800 in Pay Band 2. Therefore, denial of the same benefit to the petitioner based on the clarification issued by the Under Secretary to the Government was contrary to the above said clarification and without amending the rules of the revised pay scale, such decision cannot be taken. Therefore, we are inclined to interfere with the order of the Tribunal.

Accordingly, the Writ petition is allowed setting aside the order of the Tribunal dated 19.04.2010 passed in O.A No. 167 of 2009. The respondents are directed to extend the benefit of grade pay of Rs. 5400 to the petitioner from 01.01.2008 as per the resolution dated 29.08.2010.”

4.5.3 The order of the Hon'ble High Court of Judicature of Madras was examined in the light of clarification dated 11.02.2009 on grant of Non-functional grade in the grade pay of Rs. 5400/- in PB-2 to Group 'B' officers in consultation with Department of Expenditure in the case of M. Subramaniam. Department of Expenditure vide UO No. 15(23)E.III(B)/2010 dated 24.12.2010 clarified that non-functional up-gradation to the grade pay of Rs. 5400/- in the pay band PB-2 can be given on completion of 4 years of regular service in the grade pay of Rs. 4800/- in PB-2 (pre-

revised scale of Rs. 7500-12000) after regular promotion and not on account of financial upgradation due to ACP. In the case of Shri M. Subramaniam, he was holding the post of Inspector and was granted the grade pay of Rs. 4800/- in PB-2 under ACP Scheme. He was not promoted to the post of Superintendent/Appraiser and as such, he had not rendered any regular benefit of grade pay of Rs. 4800/-. Therefore, he could not be extended the benefit of grade pay of Rs. 5400/- after 4 years of service in the grade pay of Rs. 4800/-. DoP&T also endorsed the view of the Department of Expenditure.

4.5.4 Accordingly, an SLP No. 15627 of 2011 was filed by UoI before the Hon'ble Supreme Court (subsequently converted to Civil Appeal No. 8883/2011) against the Hon'ble Madras High Court order dated 06.09.2010 in W.P. 13225/2010. The Hon'ble Supreme Court vide order dated 10.10.2017 did not see any ground to interfere with the impugned order and accordingly dismissed the appeal.

4.5.5 A Review Petition (Civil) No. 2512 of 2018 in Civil Appeal No. 8883 of 2011 was also filed by the Union of India before the Hon'ble Supreme Court which was also dismissed vide order dated 23.08.2018 both on the ground of delay as well as on merits.

FINDINGS

5.1 I have gone through the instructions of DoP&T on the issue of grant of NFG and also the decisions of the Hon'ble CAT/High Court/Supreme Court on the issue. Further the Board vide letter dated 07.03.2025 under F.No. A-23011/44/2020-Ad.IIA (Pt.2) has directed that the order dated 12.12.2024 passed by the Hon'ble CAT, Guwahati Bench in O.A No. 040/273/2024 may be implemented provided that the applicants are similarly situated to the case covered in the Hon'ble Madras High Court order dated 06.09.2010 in W.P No. 13225/2010 passed in M. Subramaniam case against which SLP was dismissed.

5.2 As per the records available, the details of the grant of the financial up-gradation to the applicant in GP of Rs 4800/- are as under:

SL. No.	Name of Officer (S/Shri/Smt)	Designation	Date of granting MACP/ACP in GP 4800/-	Date of Joining as Superintendent
1.	Debasish Bose	Superintendent (Retd.)	08-02-2007	18-03-2013

5.3 I find that the instant order dated 12.12.2024 passed in O.A No. 040/0273/2024 by the Hon'ble CAT, Guwahati Bench in which the Officer in the present O.A is similarly placed to the applicants covered in the order dated 06.09.2010 of Hon'ble Madras High Court in W.P No. 13225 of 2010(M. Subramaniam case). The same was forwarded to Board for further necessary action in terms of Board letter F. No. 23011/67/2020-Ad.IIA dated 07.04.2021. In response to this office letter, Board has given the approval vide F.No. A-23011/44/2020-Ad.IIA (Pt.2) dated 07.03.2025 for extending the benefit of NFU to the applicants provided the facts of the instant case is similar to M. Subramaniam case.

ORDER

In terms of Board's Clarification issued vide F. No. A.26017/98/2008 -AdII.A dated 21.11.2008, if an officer completes 4 years on a date after 01.01.2006 he will be given NFU from such date on which he completes 4 years in the pay scale of Rs. 7500-12000/- (Pre-revised). On the basis of the facts as stated above, applicant in the O.A No. 040/0273/2024 would hereby be granted Non-Functional Upgradation (NFU) in the grade pay of Rs. 5400/- in PB-2 on completion of 04 years of continuous service in the pay scale of Rs. 7500-12000/- (Pre-revised) corresponding to the Grade Pay of Rs. 4800/-. However, the eligibility of Non Functional Upgradation (NFU) in the grade pay of Rs. 5400/- in PB-2 is subject to verification of his service records and vigilance clearance.

(Dr. Shailendra Kumar Sinha)
Chief Commissioner
CGST, CEX & Customs, Guwahati Zone

To the officer concerned.

GCCO/I/(10)/2/2025-ADMN-O/o CC-CGST-ZONE-GUWAHATI

Copy forwarded for information to:-

1. The Pr. Commissioner/Commissioner, CGST & Customs (all concerned), Guwahati Zone.
2. The Additional Director General, DGGI/DRI (all concerned Zonal Units).
3. The Assistant Commissioner(Admin), CCO, Guwahati.
4. The Superintendent, CAT-Cell, CCO, Guwahati.

(Chitta Ranjan Hazra)
Assistant Commissioner,
CCO-CCA, Guwahati Zone