

Immediate/ By Speed Post

F.No.23011/67/2020-Ad.IIA
Government of India
Ministry of Finance
Department of Revenue
(Central Board of Indirect Taxes & Customs)

North Block, New Delhi
Date: 7th April, 2021

To,

The Pr. Chief Controller of Accounts,
Central Board of Indirect Taxes & Customs
(Coordination Expenditure Section)
1st Floor, DGACR Building,
I.P. Estate, New Delhi - 110002

Subject: Extension of benefit in respect of non-petitioners/ similarly placed officers with respect to order of Hon'ble Madras High Court dated 06.09.2010 in WP No. 13225/2010 - regarding

Sir/ Madam,

Please refer to your letter F.No./Coord./Expdt./MACP Clari/01/20-21/489 dated 11.02.2021 on the above cited subject matter wherein reference has been drawn towards Board letter No. A-23011/67/2020-Ad.IIA dated 24.09.2020 vide which it was communicated to the Chief Commissioner of CGST Meerut/ Lucknow Zone that the extension of benefit of M. Subramaniam case to non-Petitioner/ similarly placed officers arising out of judgment dated 06.09.2010 passed by the Hon'ble High Court of Madras in WP(C) No. 13225/2010 is being examined in consultation with Department of Expenditure.

2. Briefly, as per recommendations of the 6th Central Pay Commission, Department of Expenditure vide Resolution No. 1/1/2008 IC dated 29.8.2008 has specified that the Group-B officers of D/o 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. On receipt of references from field formation of CBEC, the matter was examined in consultation with the Department of Expenditure and a clarification was issued vide this Department's letter F. No. A-26017/98/2008-Ad.IIA dated 21/11/2008 (**copy enclosed**) clarifying the position as to how the 4 years period is to be counted for the purpose of granting non-functional upgradation to group 'B' officers working under the field formations of CBEC. It was clarified that 4-year period is to be counted w.e.f. the date on which an officer is placed in the pay scale of Rs. 7500-1200 (pre-revised). Thus, if an officer has completed 4 years on 01.01.2006 or earlier, he will be given the non-functional upgradation w.e.f. 01.01.2006. If the officer completes 4 years on a date after 01.01.2006, he will be given non-functional upgradation from such date on which he completes 4 years in the pay scale of Rs. 7500-12000(pre-revised).

3. Further on receipt of some other references from filed formations of CBEC as to whether the officers who had got the pre-revised pay scale of Rs. 7500-12000 by virtue of financial upgradation under ACP will also be entitled to the benefit of further non-functional upgradation on completion of 4 years in the prescribed pay scale of Rs. 7500-12000 in terms of the recommendation of the 6th CPC as accepted by the Govt. The matter was again examined at length

P.T.O.

in consultation with Department of Expenditure. It was clarified vide CBEC letter F. No. A-26017/98/2008-Ad.IIA dated 11.02.2009 (**copy enclosed**) that the officers who got the pre-revised pay-scale of Rs. 7500-12000 (corresponding to grade pay of Rs. 4800) by virtue of financial upgradation under ACP will not be entitled to the benefit of further non-functional upgradation to the pre-revised pay-scale of Rs. 8000-13500 (corresponding to the grade pay of Rs. 5400), on completion of 4 years in the pre-revised pay scale of Rs. 7500-12000. It was again clarified vide Board's letter F. No. A-26017/98/2008-Ad.IIA dated 16th September, 2009 (**copy enclosed**) that non-functional Grade Pay of Rs. 5400 in PB-2 will not be granted to such Group B officers who have got the Grade Pay of Rs. 4800 on upgradation under the Assured Career Progression Scheme.

4. In this connection, it is also stated that Shri Subramaniam had filed the OA No 167/2009 before the Hon'ble CAT, Chennai Bench stating that he was entitled to grade pay of Rs. 5400 w.e.f. 1.1.2008 after 4 years of service in the grade pay of Rs. 4800/-, granted under ACP Scheme, as per the orders of the Government of India accepting the recommendations of the 6th Pay Commission and requested to the Tribunal to direct the respondents to grant him consequential pay/financial benefits etc. The same was dismissed by the Hon'ble Tribunal vide order dated 19.04.2010. He made appeal before Hon'ble High Court of Madras against the order dated 19.04.2010 of the Tribunal in WP No. 13225 of 2010 which was allowed by the High Court vide order dated 06.09.2010 in favour of Sh. M. Subramaniam. Further, the Civil Appeal No(s) 8883 of 2011 filed by this Department against the order dated 19.04.2010 of the High Court was dismissed by the Hon'ble Supreme Court vide order dated 10th October, 2017. Accordingly, this Department, in consultation with D/o Expenditure, decided to implement the Order dated 06.09.2010 of the Hon'ble High Court of Madras in case of Petitioners only.

5. Keeping in view the fact that Hundreds of CAT/Court cases are pending throughout India seeking benefit of M. Subramaniam case, the matter of extending the benefit of Order dated 06.09.2010 of the Hon'ble High Court of Judicature at Madras in W.P. No. 13225 of 2010 in the case of M. Subramaniam to all similarly placed officers has been examined in the Board. Department of Expenditure has not agreed to the proposal of the Department to extend the benefit of the said judgement to all similarly placed officers. However, the Court judgements which are passed by placing reliance on the M. Subramaniam case are forwarded to the Board for further directions in so far as implementation of such CAT/Court orders are concerned.

6. This issues with the approval of the Competent Authority.

Yours Faithfully,

Encl: As above



(Avneesh Pratap Singh)

Under Secretary to the Govt. of India

Tele-01123095528

Copy to:

1. All Cadre Controlling Authority under Central Board of Indirect Taxes & Customs for information and necessary action.

17

F.No.A.26017/98/2008-Ad.II.A
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise & Customs

New Delhi, the 21st November, 2008

To

All the Chief Commissioners/ Directors General under CBEC.
All the Commissioners in-charge of Directorates under CBEC.

Subject: Clarification regarding date of grant of non-functional upgradation of Group-B Officers.

Sir/ Madam,

I am directed to mention that in Part-C, Section-II of the CCS (Revised Pay) Rules, 2008, under the Heading 'Ministry of Finance, Department of Revenue, at S. No. 9, it is indicated that Superintendents, Appraisers etc. (Customs & Central Excise) [who are in the pre-revised scale of Rs.7,500-12,000] shall be granted Grade Pay of Rs. 5,400 in PB-2 [corresponding to pre-revised scale of Rs. 8,000-13,500], after 4 years of Service. Further, in Clause (x)(e) of the RESOLUTION it is indicated that "Group-B Officers of the Department of Posts, Revenue, etc will be granted Grade Pay of Rs.5,400 in PB-2 on non-functional basis after 4 years of regular service in the Grade Pay of Rs.4,800 in PB-2."

2. Some field formations had sought a clarification on how the 4-year period is to be counted for the purpose of granting non-functional upgradation to Group-B Officers, i.e. whether 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.7,500-12,000 (pre-revised), or w.e.f. 01.01.2006, i.e. the date on which the recommendations of the 6th CPC came into force. The matter was referred to the Department of Expenditure.

3. The Department of Expenditure have now 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.7,500-12,000 (pre-revised). Thus, if an officer has completed 4 years on 01.01.2006 or earlier, he will be given the non-functional upgradation w.e.f. 01.01.2006. If the officer completes 4 years on a date after 01.01.2006, he will be given non-functional upgradation from such date on which he completes 4 years in the pay scale of Rs.7,500-12,000 (pre-revised).

4. This is for your kind information and necessary action.

Yours faithfully,



(L R Aggarwal)

Deputy Secretary to the Govt. of India
Tel: 011-2309-3102

F.No.A.26017/98/2008-Ad.II.A
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise & Customs

New Delhi, the 11th February, 2009

To

All the Chief Commissioners/ Directors General under CBEC.
All the Commissioners in-charge of Directorates under CBEC.

Subject: Clarification regarding grant of non-functional upgradation to Group-B Officers.

Sir/ Madam,

I am directed to mention that in Part-C, Section-II of the CCS (Revised Pay) Rules, 2008, under the Heading 'Ministry of Finance, Department of Revenue, at S. No. 9, it is indicated that Superintendents, Appraisers etc. (Customs & Central Excise) [who are in the pre-revised scale of Rs.7,500-12,000] shall be granted Grade Pay of Rs. 5,400 in PB-2 [corresponding to pre-revised scale of Rs. 8,000-13,500], after 4 years of Service. Further, in Clause (x)(e) of the RESOLUTION also, it is indicated that "Group-B Officers of the Department of Posts, Revenue, etc will be granted Grade Pay of Rs.5,400 in PB-2 on non-functional basis after 4 years of regular service in the Grade Pay of Rs.4,800 in PB-2."

2. The pre-revised pay-scale of Rs. 7,500-12,000 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. A question was raised as to whether the officers who had got the pre-revised pay-scale of Rs.7,500-12,000 by virtue of financial upgradation under ACP will also be entitled to the benefit of further non-functional upgradation on completion of 4 years in the pre-revised pay scale of Rs.7,500-12,000, in terms of recommendations of 6th CPC accepted by the Government, as mentioned in Para-1 above.

3. The matter has been examined in consultation with Department of Expenditure, who have clarified the matter as follows:

"..... Non-functional upgradation to the grade pay of Rs.5,400 in the pay band PB-2 can be given on completion of 4 years of regular service in the grade pay of Rs.4,800 in PB-2 (pre-revised scale of Rs.7,500-12,000) after regular promotion and not on account of financial upgradation due to ACP."

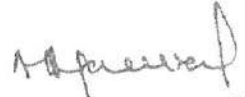
4. Thus, it is clear that the officers who got the pre-revised pay-scale of Rs.7,500-12,000 (corresponding to grade pay of Rs.4,800) by virtue of financial upgradation under ACP will not be entitled to the benefit of further non-functional upgradation to the pre-revised pay-scale of Rs.8,000-13,500 (corresponding to grade

132

pay of Rs.5,400), on completion of 4 years in the pre-revised pay scale of Rs.7,500-12,000.

5. This is for your kind information and necessary action.

Yours faithfully,



(Alok Agarwal)

Under Secretary to the Govt. of India
Tel: 011-2309-3476

F.No. A-26017/98/2008-Ad. II A
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise & Customs

New Delhi, the 16th September, 2009

To
All Chief Commissioners / Commissioners of Central Excise / Customs.
All Directors General of Directorates in CBEC.

Subject:- Clarification on grant of Grade Pay of Rs. 5400 on functional basis to Group 'B' officers in Central Board of Excise & Customs

Sir,
Reference is invited to this Department's letter F.No. A-26017/98/2008-Ad.II A dated 21/11/2008 on the above subject.

2. In pursuance of Government of India, Department of Expenditure Resolution No. 1/1/2008-IC dated 29th August, 2008 notifying acceptance of recommendations of 6th Central Pay Commission, it was decided to grant Grade Pay of Rs. 5400 in PB-2 on non-functional basis to Group B officers of Central Board of Excise & Customs (i.e. Customs Appraiser / Superintendent of Central Excise / Superintendent of Customs (P)) after 4 years of regular service in the grade pay of Rs. 4800 in PB-2.

3. It is now clarified that the grant of the higher grade pay of Rs. 5400 in PB-2 on non functional basis is not linked to vacancy and may be given retrospectively w.e.f. 1/1/2006 provided the officer concerned has,

- (i) completed minimum 4 years of regular service as on 1/1/2006 as Customs Appraiser / Superintendent of Central Excise / Superintendent of Customs (P) irrespective of the pay scale attached to the post, and
- (ii) is clear from vigilance angle.

and provided further that,

Officers who have not completed 4 years of regular service as Customs Appraiser / Superintendent of Central Excise / Superintendent of Customs (P) shall be given this pay scale immediately on completion of 4 years of regular service in the respective post provided they are clear from vigilance angle.

4. It is further clarified that the non functional Grade Pay of Rs. 5400 in PB-2 will not be granted to such of those Group B officers who have got the Grade Pay of Rs. 4800 on upgradation under the Assured Career Progression Scheme.

5. This issues with the approval of Department of Expenditure, Implementation Cell vide their IC U.O. NO. 10/1/2009-IC dated 15.09.2009

Yours faithfully,


(L.R. Aggarwal)

Deputy Secretary to the Government of India
Tele: 23093102