

**(2021) 06 GUJ CK 0083**  
**In the Gujarat High Court**

**Case No :** R/Special Civil Application No. 1892 Of 2021

Pradeep Kumar Pandey

APPELLANT

Vs

Union Of India

RESPONDENT

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**Date of Decision :** 15-06-2021

**Acts Referred:**

Constitution Of India, 1950 — Article 14, 16, 226

**Citation :** (2021) 06 GUJ CK 0083

**Hon'ble Judges :** A.J.Desai, J;Dr. A. P. Thaker, J

**Bench :** Division Bench

**Advocate :** Vishrut Bhandari, Prithu Parimal, Nikunt K Raval

**Final Decision :** Allowed

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**Judgement**

A.J.Desai, J

1. Rule. Mr.Nikunt Raval, learned advocate waives service of notice of rule on behalf of the respondents.

Considering the aspects of the matter, this petition has been taken up for final hearing today with the consent of the learned advocates appearing for

the respective parties.

2. By way of present petition under Articles 14, 16 and 226 of the Constitution of India, the petitioner has prayed as under:-

â??7. The Applicant most humbly prays that-

A. This Honâ??ble Court be pleased to admit and allow the present Petition;

B. This Honâ??ble Court be pleased to issue a writ of mandamus and/or a writ in the nature of mandamus and/ or any other appropriate writ/order/

direction, quashing and setting aside order being F.NO.DGGI/SZU/G-12020/02/2020-21, dated 05.08.2020, annexed to the present Petition at

Annexure-I, and further be pleased to direct the Respondent Authorities to grant the Petitioner grade pay of Rs.5400/-, w.e.f. 08.06.2010 in Pay

Band-2, along with all consequential benefits;

B1. This Honâ??ble Court be pleased to quash and set aside the Office Memorandum dated 27.03.2019, issued by CBIC vide letter no.F.No.A-

23011/01/2019-Ad.HA.

C. This Honâ??ble Court be pleased to pass appropriate orders imposing suitable costs on the present Respondents for their arbitrary actions as well

as for needlessly causing a situation wherein the present Petitioner was constrained to approach this Honâ??ble Court;

D. This Honâ??ble court be pleased to pass any other further and consequential order as may be required in the interest of justice considering the

facts and circumstances of the present case.â??

3. In response to the notice issued by this Court, respondents have appeared through learned advocate Mr.Nikunt Raval and affidavit-in-reply dated

20.3.2021 has been filed on behalf of respondent nos.4 and 5 opposing grant of any relief.

4. At the outset, we would like to observe that a petition which has been filed for issuance of writ of mandamus without approaching the Central

Administrative Tribunal is being entertained only on the ground that the case of another employee, who was similarly situated and who had challenged

the decision of the Tribunal by filing writ petition being Special Civil Application No.346 of 2018, was entertained by this Court. We are of the opinion

that when the issue is covered and similar case is considered even by Honourable the Apex Court, it would be futile to ask the petitioner to avail

alternative remedy since notice has been issued in this matter.

5. The short facts of the case are that the present petitioner is presently serving on the Post of Superintendent of Central Goods and Service Tax and

Customs in Daman Commissionerate. That on the ground of introduction of Central Civil Services (Revised Pay) Rules 2008, which came into force

from 29.8.2008, and as per said Rules and Section II of Part-C of First Schedule, the petitioner would be entitled to Grade Pay to the tune of

Rs.5400/- instead of Rs.4800/- since he had completed services of four years.

6. We have gone through the decision of High Court of Judicature at Madras in the case of M.Subramaniam v. Union of India and Others delivered

on 6.9.2010 by Division Bench of Madras High Court, which has been upheld by the Honourable Apex court in Civil Appeal No.8883 of 2011 as well

as oral judgment of this Court dated 10.4.2018 passed in Special Civil Application No.346 of 2018. Having gone through the facts of said case and

applicability of ratio laid down in those cases, we are of the opinion that the petitioner would be entitled for relief prayed for in paragraph 7-B.

7. Hence, this petition is allowed. The respondent authorities are hereby directed to grant benefit of fixation of Grade Pay of Rs.5400/- in Pay Band-2,

considering abovementioned decisions, with all consequential and ancillary benefits, which may be available to the petitioner. The respondents shall

complete the aforesaid exercise within a period of 12 weeks from the date of receipt of this order. Rule is made absolute to the aforesaid extent.

Direct service is permitted.