Ref. No. 56/10 Dt. 08.06.10

To,
The Hon’ble Minister of State,
Department of Expenditure,
Ministry of Finance, New Delhi.


Sir,

Kindly refer to the following communications on the above subject-

i) The meeting in person held with your goodself on 27.04.10.

ii) Ref. No. 44/10 Dt. 27.04.10 of the association addressed to your goodself.

iii) Ref. No. 47/10 Dt. 06.05.10 of the association addressed to your goodself.

iv) Ref. No. 52/10 Dt. 18.05.10 of the association addressed to the Joint Secretary (Personnel), Department of Expenditure, New Delhi and the copy endorsed to your goodself.


It is submitted with due regards that the Hon’ble Central Administrative Tribunals have given such type of favourable decisions at least on three occasions as below-

i) O.A. No. 180/2006 by Cuttack CAT.

ii) O.A. No. 45/2000 by Jabalpur CAT.

iii) O.A. No. 541/94 by Jabalpur CAT.

All the things were analysed in our favour on each occasion by the Hon’ble CAT’s giving detailed justifications asking the government to pass the speaking order. But the government was only pleased to reject the same on every occasion giving no heed to the detailed justifications given by the Hon’ble CAT’s. The government even gave no weightage to-

a) Its own strong recommendations made to the Vth CPC saying that our duties are more hazardous and arduous than CBI, IB etc.

b) The acceptance of the Ministry of Law after the IInd judgement in O.A. No. 45/2000 of Jabalpur CAT.

While our claims were being rejected, the staff of CBI etc. was repeatedly able to get the relief without any specific recommendations or legal judgement/s. The CBI etc. employees not only got the higher pay scales but also got one month extra salary in a year as well as 25% special pay per month. We were given nothing despite of the fact that the investigation & intelligence work is an integral and only a single part of our duties. The staff of CBI, IB etc. is doing only that single part of our duties. This is the only reason that we are entitled to go to their department on deputation while they are not entitled to come to our department. We are also doing the work of enforcement, judicial, executive, anti-evasion, anti-smuggling etc.
nature along with the investigation & intelligence work. Thus, their duty constitutes merely one part of our duties. If the justified decision is taken in the matter, the feeling of the job-satisfaction to the staffside up to an extent will automatically increase the efficiency multifold and the revenue collection will be increased further manifold.

Moreover, the then Deputy Secretary in CBEC, Sh. Dharamvir Gupta, issued the orders for the payment of the arrears vide letter F. No. A-26017/44/94-Ad.II (A) Dated 08.03.95 on the basis of the very Ist judgement of its kind in O.A. No. 541/94 of Jabalpur CAT from the date of the enhancement of the pay-scale of the staff of CBI, IB etc. But, very unfortunately, the orders of Sh. Gupta were withdrawn and the matter was referred to the Vth CPC. The Vth CPC was pleased to place our officers and the officers of CBI, IB etc, in the same pay scale but even then we were not paid the arrears as per the decision in the O.A. No. 541/94 of Jabalpur CAT which are now overdue.

It is further submitted that the following categories of the officers have already been given the retrospective benefits of the pay upgradation:

i) The pay scale of our counterparts, the Superintendents of Narcotics Control Bureau, was revised from Rs.6,500-10,500/- to Rs.7.500-12,000/- w.e.f. 01.01.96 with all consequential benefits vide Office Order under F.No.15/2(38)/2004-Esst. Dated 20.04.05 issued by NCB, Ministry of Finance & Company Affairs, G.O.I.

ii) The redeployed surplus staff was also allowed the revised scale of pay w.e.f. 01.01.96 with all the consequential benefits vide DOP&T O.M. No.1/7/98-CS.III, dt. 09.04.99.

iii) The pay scales of the officers of the Organised Accounts Departments were revised w.e.f. 01.01.96 with actual payments w.e.f.19.02.03 vide MF & CA O.M. No.6/82/E-III.(B)/91dt. 28.02.03.

iv) The pay scales of Divisional Accountants/Divisional Accounts Officers were upgraded w.e.f. 01.01.96 with financial benefit w.e.f.28.04.04 vide C&AG [Cir No. 26/NGE/2004] No. 341-NRE (App.)/36-2003 dt. 28.04.04

v) The pay scales of Junior Translator, Senior Translator and Asst. Director (OL) were upgraded notionally w.e.f. 01.01.96 with financial benefit w.e.f.11.02.03 vide Department of Official Language O.M. No. 13/6/2002-OL dt. 02.04.04.

vi) The officers of the Ministry of Agriculture were also paid the arrears of pay from a particular date and notional fixation w.e.f. 01.01.96 on the upgradation of the scale.

vii) In case of CAG, change of scale including Rs.6500-10,500/- to Rs.7500-Rs.13,500/- was given effect notionally w.e.f. 01.01.1996 vide O.M. under F.No.6/82/E.III(B)/91 Dated 28.02.2003 issued by Deptt. of Expenditure, Ministry of Finance & Company Affairs, G.O.I.


ix) In cases of the Accounts Employees in Railways, they were given the retrospective benefit vide O.M. F. No.- 6/82.E.III(B)/91 Dt. 28.02.03 of the Department of Expenditure.

x) The Section Officers of CSS were given the retrospective benefit vide Order No.- 5/4/2005-CS.I dt. 25.01.05 of DOPT.

xi) In case of the Accounts Employees in Postal , IA & AD, Civil Accounts, Ministry of Coal & Mines etc, the benefit of notional fixation of revised pay with effect from 01.01.1996 has been given with actual payment with effect from the date of the issue of order.

xii) The Principal Bench of Hon’ble CAT has also given the retrospective benefit along with arrears from a particular date to the employees in O.A. No. 2529/96.

xiii) The Hon’ble CAT of Ernakulam has also taken the view that the effect of the revised scale should be given retrospectively from the date of the implementation of the report of the Pay Commission. Such a decision was given by the Hon’ble CAT, Ernakulam in a petition filed by a section of the employees of the Department of Railways from Thiruvananthapuram in its order (O.A. No.671/2003) dated 30.06.06 allowing the benefit of an order dated 19.02.03 (improved pay scale) retrospectively w.e.f. 01.01.96 with arrears.
xiv) The Hon’ble Supreme Court has also given the retrospective benefit **alongwith arrears from the date of filing the case in the court** to the employees in Civi Appeal No. 5866 of 2000.

xv) Bombay Bench of Hon’ble CAT has also given the retrospective benefit to the employees in O.A. No. 859 of 2004.

xvi) The Principal Bench of Hon’ble CAT has also given the retrospective benefit **alongwith arrears from a particular date** to the employees in O.A. No. 2951/2003.

There may be many more other cases of the upgradation of the pay scale where the officers have been given the retrospective benefit.

The payment of the arrears with retrospective effect is further substantiated from the observations of the VIth CPC in para 7.15.24 of the report wherein the traditional parity of the **Chief Enforcement Officer with the Superintendent of Central Excise and Assistant Enforcement Officer with the Inspector of Central Excise** has been admitted and recommended for the maintenance of the same for future.

It is further submitted that the CBEC has rejected the claim vide above referred letter F. No. A-26017/65/2006 Dt. 09.02.10 on unsustainable grounds like-

(1) The repercussions that other equivalent cadres will also make the same demand.

(2) The matter is already subjudice in the High Court of Jabalpur.

The above grounds are never sustainable and justifiable on account of the following submissions for the sake of justice and equity -

The ground No. (1) taken by the CBEC can never be a valid reason to deny the justice to the aggrieved cadre despite of **at least three convincing judgements of the Hon’ble CAT**. Moreover, the government never thought about these repercussions at the time of upgrading the pay scales of our counterparts in CBI, IB etc. which was done **without any legal force on account of any legal judgement**. Moreover, the actual justice can never be denied on the grounds of any type of repercussions in such matters. Even in our own department, the higher IRS authorities were given the benefit of higher pays by the government after the implementation of the report of VIth CPC **without thinking of such financial repercussions**.

The ground No. (2) taken by CBEC also stands nowhere as our pay scales were upgraded w.e.f. 21.04.04 giving parity with CBI, IB etc. at such a time when the case was already subjudice in a court of law.

In view of the above examples submissions, it is requested that our officers may also kindly be paid the due arrears at an early date w.e.f. 01.01.86 considering the parity with CBI, IB etc. in all the matters relating to pay etc.

Thanking you,

Yours faithfully,

(RAVI MALIK),
Secretary General.