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Central Administrative Tribunal, Principal Bench

Original Application No.400 of 1997

New Delhi, this the 30th day of August, 2000

Hon'ble Mr. Kuldip Singh, Member (J)
Hon'ble Mrs. Shanta Shastri, Member (A)

Shri Jagat Singh Sajwan
S/o Shri Bishan Singh
working as Assistant Audit Officer
O/o Director General of Audit
Central Revenues, AGCR Building
I.P. Estate,
New Delhi-110002 - Applicant

(By Advocate - Shri V.K. Mehta)

Versus

1. Comptroller & Auditor General of India
10, Bahadurshaj Zafar Marg
New Delhi-2

2. Director General of Audit
Central Revenues, AGCR Building
I.P. Estate,
New Delhi-110002

3. Union of India, through
the Secretary
Department of Personnel & Training
Ministry of Personnel, Public Grievances & Pensions
North Block,
New Delhi-1 - Respondents

(By Advocate - Shri M.K. Gupta)

O R D E R

By Hon'ble Mr. Kuldip Singh, Member (J)

The applicant in this OA has prayed for the following reliefs:-

- (i) To set aside the memo No. Admn. I/6-2/93-97/91 dated 4.6.96 and memo No. Admn. I/6-2/93-97/551 dated 7.1.1997 issued by the office of the Director General of Audit, Central Revenues, New Delhi;
 - (ii) Declare that the Circular No. NGE-03/96 dated 24.1.1996 issued by the office of the C&AG of India, New Delhi, to the extent it is made applicable from 31.1.1995 replacing the existing increment based incentive scheme by one time lump-sum incentive as arbitrary, unjust, unreasonable against law, ultra-vires and violative of.
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articles 14 and 16 of the Constitution of India;

(iii) To declare that the applicant is entitled to the benefits of advance increments in terms of orders contained in C&AG's letter dated 7.9.1987; and

(iv) To direct the respondents to sanction 4 more advance increments to the applicant w.e.f. 22.6.95 or having qualified in the ICWA final examination, June, 1995.

2. The facts in brief are that the applicant is working as Assistant Audit Officer in the establishment known as Indian Audit and Accounts Department under respondent No.1 which is an independent department of Comptroller and Auditor General of India is the constituent head of this department and Article 148 of the Constitution of India which provides for framing of rules for service of persons serving in the Indian Audit and Accounts Departments (hereinafter referred to as IA&AD) to be made by President in consultation with the C&AG.

3. The applicant initially joined as a Lower Division Clerk and thereafter he was promoted as Section Officer w.e.f. 29.10.1986 and again as Assistant Audit Officer Group 'B' (Gazetted) w.e.f. 1.1.1991.

4. It is further pleaded that the office of C&AG issued orders contained in letter dated 7.9.1987 regarding advance increments to IA&AD officials for

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qualifying the ICWA and AICA examinations. Departmental candidates who were entitled to 2 advance increments, became entitled to six advance increments on their qualifying in ICWA final examination.

5. The said scheme was modified and it was replaced by another Scheme dated 24.1.1996 whereby instead of incentive of grant of advance increments a lump-sum amount was allowed to be granted as an incentive to those who qualify ICWA examination.

6. The applicant in this case had taken the final examination of ICWA which was held in June, 1995 and was declared qualified. Thereafter, he applied for grant of 6 advance increments but the respondents instead of granting the said advance increments as per Circular dated 24.1.1996, said that the applicant was entitled to only a lump-sum incentive of Rs. 10,000/- because the replacement scheme was made applicable w.e.f. 31.1.1995 and thus the respondents refused to grant six advance increments to the applicant.

7. We have heard the learned counsel for the parties and gone through the records.

8. Shri V.K. Mehta, counsel appearing for the applicant submitted that recently the Hyderabad Bench of the Tribunal vide its order dated 4.11.1997 in the case of A.A. Narasimha Murthy Vs. The Comptroller and Auditor General of India and Others, had held that

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the circular issued by the respondents cannot be made applicable with retrospective effect particularly when the administrative instructions as that of letter dated 24.1.1996 intend to take the accrued rights of the employees concerned and it was specifically held therein that the order dated 24.1.1996 will have only prospective effect. On the same analogy, we find that in this case also the applicant had taken the test in June, 1995 and he was eligible to have the increments with effect from June, 1995 itself as he was earlier granted two increments when he had qualified the Intermediate Examination of ICWA and the increments were granted w.e.f. the month he had appeared in the aforesaid examination. So a right to the applicant had also accrued when he had appeared in the final examination of ICWA in June, 1995 and as per the judgment of the Hyderabad Bench in the case of A.A. Narasimha Murthy (Supra) since it had been held there specifically that the letter dated 24.1.1996 can have only prospective effect, so we find no reason to differ from the view taken by the Hyderabad Bench and also hold that the applicant in this case is entitled to have advance increments as per the instructions which stood prior to the issue of letter dated 24.1.1996.

9. In view of the above, O.A. is allowed. We direct the respondents to give advance increments to the applicant from June, 1995 as per the instructions existing prior to issue of letter dated 24.1.1996. He

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will also be entitled for all consequential benefits like pay fixation etc. The above directions should be implemented within a period of 2 months from the date of receipt of a copy of this order. No costs.

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(Mrs. Shanta Shastri)
Member (A)

Kuldip Singh
(Kuldip Singh)
Member (J)

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