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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A. No. 261/1994

New Delhi, This the 20th Day of September 1994

Hon'ble Shri P T Thiruvengadam, Member (A)

Shri Mahesh Chandra
S/o Shri Ram Kumar (Retired)
Executive Engineer, CPWD
R/o EA-1/33, Inderpuri
New Delhi 12.

..Applicant

By Applicant in person

Versus

1. The Union of India through
The Secretary
Ministry of Urban Development
Nirman Bhawan
New Delhi.
2. The Director General (Works)
C P W D Nirman Bhawan
New Delhi.
3. The Chief Engineer,
Zone II, P W D Delhi Administration
M.S.C. Building
New Delhi.
4. The Project Manager
Guru Tegh Bahadur Medical
College and Hospital Project
P.W.D. (Delhi Administration)
Shahdara,
Delhi.

...Respondents

By Shri B S Gupta, Advocate

ORDER (oral)

Hon'ble Shri P T Thiruvengadam, Member (A)

1. The applicant was promoted on adhoc basis from the post of Assistant Engineer to Executive Engineer in the Department of CPWD. The benefit of Concordance Table for the purpose of pay fixation on promotion was not initially available at the time the applicant was promoted. By mid 1985 the applicant was compulsorily retired. Only in the year 1989 vide office Memo dated 10.4.89 it was decided to extend the benefit of Concordance Table for all those who had been promoted on adhoc basis from AE to EE during the period 1.1.73 to 31.12.85.

The applicant claimed that he came to know of this memo only in the year 1992 and formally made a request for re-fixation. It is admitted by the respondents that such a representation dated 10.5.93 was received by them and after that a number of units had to be contacted where the applicant was working during the said periods i.e. between 1975 when the applicant was promoted from AE to EE on adhoc basis to the year when he was finally retired on 1989. It took some time. By April 1994 necessary arrears have been sanctioned and passed for payment. The applicant has no grievance about the quantum of payment which has been allowed to him by way of implementation of 10-4-89 office memorandum. At the time of argument the reliefs claimed by the applicant in view of the subsequent development were as under:-

(a) While paying the arrears of Rs.10,469/- income-tax deduction to the tune of Rs.4220/- has been made. Respondents had made the calculation for income-tax deduction based on the salary dues for the relevant years between 1975 to 1985. The applicant's contention is that since the actual payment of arrears has been made in the year 1994-95 in which year his income is negligible after taking into account his pension, income-tax deductions should have been made at the rates as applicable to the year 1994-95. It is his case for the year 1994-95 he is not within the taxable limit even after taking into account the arrears of Rs.10,469/- and the total pension alongwith

pay recoveries relevant for the year.

Hence the refund of income tax amount deducted from his arrears is claimed.

(b) The arrears were to have been paid before 31.5.89 as per the O.M. dated 10.4.89 which gave direction to all the controlling officers to ensure that the completion report regarding the implementation of the provisions of O.M. should be submitted by 31.5.89.

2. As regards the income tax recovery the respondents argued that the recovery has already been made to the extent based on their interpretation of income-tax rules and the amount has been passed on to the income-tax department. It was stated that the applicant may file his income tax return for the year 1994-94 and can claim the refund of income tax amount alleged to have been recovered incorrectly from him. The applicant however argued that for no fault of his he is being made to suffer and put into unnecessary transaction with the income tax department. After hearing both these sides I direct the respondents to check the correct provision in the income tax rules to arrive at the income-tax which should have been deducted from the applicant at the time of payment of arrears. They should also check whether this amount of Rs.4220/- which had been recovered from the applicant can even now be refunded to him by deduction from the total income tax amount which should be paid by the department every month for recoveries to various employees. An attempt should be made to see whether this refund is possible and if due to the provisions in the income tax rules for transaction between the department and the income-tax department such action is not possible, the respondents

should advise the applicant suitably within two months from the receipt of this order.

3. As regards the claim for the interest for the alleged delay in payment of arrears after 1.6.89 I note that the OM of 10.4.89 was put on the notice board for general information. The applicant should have been more vigilant to get to know of his entitlement. He had approached the department in May 93 and as explained by the respondents there was further delay of few months in view of the applicant having worked in a number of units. In the circumstances, it is not a case where interest on delayed payment can be awarded.

4. In the circumstances the OA is disposed of with the direction regarding the income-tax recovery referred supra. No costs.

P. T. Thiruvengadam

(P.T. THIRUVENGADAM)
Member (A)
20-9-94

LCP