

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH ALLAHABAD.

Original Application No.382 of 1999.

Allahabad this the 25th day of April 2003.

Hon'ble Mr.Justice R.R.K. Trivedi, V.C.

G.C. Saxena (Girish Chandra)
S/o Late Shri Ram Chandra Saxena
R/o 27/1 E.W.S Preetam Nagar Colony,
Allahabad Retired Senior Personal Assistant,
Income-tax Appellate Tribunal,
Allahabad.

.....Applicant.

(By Advocate : Vijay Bahadur)

Versus.

1. Union of India
through the Secretary
Ministry of Law and Justice (Department of Legal Affairs)
New Delhi.
2. The President of Income-tax Appellate Tribunal
Old Central Govt. Offices Building,
IV Floor, Maharshi Carve Road,
Bombay.
3. The Pay & Accounts Officer,
Department of Legal Affairs
Ministry of Law and Justice
New Delhi.
4. The Assistant Registrar,
Income-tax Appellate Tribunal
Allahabad.

.....Respondents.

(By Advocate : Shri A. Sthaleker)

O_R_D_E_R

By this O.A. filed under section 19 of Administrative Tribunals Act 1985, the applicant has challenged the order dated 18.05.1998 (Annexure 1) by which ~~his~~ application for revision of pension has been returned with the direction that the papers may be resubmitted after settling the issue of overpayment on account of wrong pay fixation of applicant as Senior P.A.w.e.f. 1.1.1990. The recovery of overpayment ^{was} ~~was~~ also be worked ^{directed to} ~~out of~~ and made from IIInd

instalment of arrears and the residual amount may be from the gratuity.

2. The facts of the case are that applicant was appointed as Stenographer in the Income-tax Appellate Tribunal Delhi Bench Delhi on 06.06.1972. From there he was transferred to Allahabad Bench of Income-tax Appellate Tribunal. The applicant was initially placed in the pay scale of Rs.210-425 which was revised, subsequently and granted pay scale of Rs.550-900 which was later on revised in the pay scale of Rs.1600-2900, in pursuance of recommendation of IV Pay Commission and Stenographers were designated as Personal Assistants. It is stated that vide order dated 1.3.1988, the Government of India issued an office memorandum in modification of earlier notification dated 13.09.86, laying down, that, Stenographers attached to the officers belonging to the Senior Administrative Grade or equivalent post shall be in the scale of Rs.2000-3200. Thus by order dated 30.09.1988, the applicant alongwith others were re-designated as Senior Personal Assistants. However, the pay scale was not revised by this order. By another order dated 23.12.1992 (Annexure 6) the pay scale of the applicant was revised from Rs1600-2900 and he was put in scale of Rs.2000-60-2300-EB-75-3200 with effect from 1.09.1990. The name of the applicant is found at Sl. No.35 in the notification dated 23.12.1992.

3. Learned counsel for the applicant has submitted that applicant was rightly given pay scale of Rs.2000-3200 and there was no illegality. The impugned order is arbitrary and illegal and has been passed without giving any opportunity of hearing to the applicant.

4. The respondents have filed counter reply resisting the claim of the applicant. The applicant, alongwith

supplementary affidavit filed on 13.03.03, has filed a judgement of Mumbai High Court, which shows that similar controversy raised before Mumbai Bench of this Tribunal in O.A. 750/98. The O.A. was dismissed on 08.01.2001 which was challenged in writ petition No.1532/01.

The controversy was similar before Hon'ble High Court. Writ Petition before Hon'ble High Court was against the order of Mumbai Bench of Central Administrative Tribunal by which the claim of the applicant of that O.A. was rejected against reduction of pay and revision of pension was not granted. The Hon'ble High Court noticed the letter dated 15.03.1999 issued from the office of Accountant General and observed that Mumbai Bench of this Tribunal passed the order without noticing the letter issued from the Office of Accountant General which justified the pay scale of the applicant in that case. The case was remanded to the Tribunal for fresh decision. The Tribunal thereafter heard the matter again and Division Bench by order dated 16.10.2002 allowed the O.A. by following order:

"In the result, O.A. is allowed. Order dated 8.9.1988 is quashed and set aside. The respondents are directed to the applicant his pension and D.A. his retirement benefits on the basis of the revised pay fixation after adjusting the amount already paid treating his pay in the revised pay scale w.e.f. 1.1.1996 Rs.9,300/- and at Rs.9,500/- w.e.f. 15.11.1996. The applicant shall be entitled to interest 12% p.a. on the payments delayed by more than three months and costs amounting to Rs.650/-. This exercise be completed within a period of three months from the date of receipt of copy of order".

5. Learned counsel for the applicant has submitted that the order passed by the Hon'ble High Court of Bombay and thereafter the order passed by the Tribunal have become final and applicant is entitled for relief. On perusal of the aforesaid judgment, it is clear that earlier objection raised by the Accountant General was withdrawn by letter dated 15.03.1999 and on the basis of that letter the Ahmedabad Bench of this Tribunal decided

the matter, as the objection was dropped. The fact was noticed by the Bombay High Court and matter was remanded to the Tribunal which allowed the claim as stated above.

6. In the circumstances, in my opinion the applicant is also entitled for relief. The O.A. is allowed, the impugned order dated 18.05.1998 is quashed.

No order as to costs.


Vice-Chairman.

Manish/-