

Open Court.

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH ALLAHABAD.

Original Application No.04 of 2003.

Allahabad this the 18th day of March 2004.

Hon'ble Mr. Justice S.R. Singh, V.C.

Hon'ble Mr. D.R. Tiwari, A.M.

R.L. Singh aged about 60 years  
S/o Shri C.L. Singh,  
R/o Flat No. Type 2/7, Income Tax Colony,  
7/44 Tilak Nagar, Kanpur.

.....Applicant.

(By Advocate : Sri K.C. Sinha/  
Sri A.K. Mishra)

Versus.

1. Union of India through  
Secretary, Ministry of Finance,  
Department of Revenue, Central Board  
of Direct Taxes, New Delhi.
2. Chief Commissioner of Income Tax,  
Kanpur, Income Tax Bhawan, 10/69  
Civil Lines, Kanpur.
3. Commissioner of Income Tax,  
Kanpur.

.....Respondents.

(By Advocate : Shri A Gopal)

O R D E R

(By Hon'ble Mr. Justice S.R. Singh, V.C.)

Heard Sri A.K. Mishra learned counsel for the  
applicant, Sri Ashish Gopal learned counsel for the  
respondents and perused the pleadings.

2. The applicant, it appears, was allowed two  
advance increments vide order dated 24.08.1994 as Supervisor  
Grade-II. Subsequently by order dated 08.05.95, the  
earlier order granting two advance increments came to  
be cancelled and applicant was directed to deposit  
the amount of advance increments received by him by  
15.05.1995. Based on 08.05.1995, impugned orders dated

19.06.2002 and 21.08.2002 came to be passed. Order dated 19.06.2002 reads as under:-

"Please refer to this office letter No.ZAO/CBDT/KNP/Pay fixation/98-99/619 dated 24.06.1998 (Copy enclosed) on the subject noted above.

In this regard it is stated that, a recovery of overpayment of pay and allowance Rs.17154/ upto 31.05.1998 + allowances thereon was due to recover from the above official due to wrong fixation of pay to the Higher scale on passing Deptt. examination. Two advance increment were taken into account which were not admissible. Please confirm whether the said amount has been recovered or not. If not, upto date overpayment of pay + allowances thereon may be proposed to be recovered from gratuity as the official is retiring on 30th of this Month. The Board vide their letter No.A-26017/44/94 Ad IX dated 09.11.2000 (Copy enclosed) has again clarified into the matter and decided that recoveries may be made from all concerned officials except those who have got a judgment from C.A.T. in their favour".

And the order dated 21.08.2002 is quoted below:-

"Please refer to your letter No.Pen/JCIT/R-3/KNP/02-03 dated Nil. Regarding finalisation of pensionary benefit to Shri Ram Lekhan Singh III his D.C.R.G. has been finalised. You are requested to furnish the Bill for Rs.131497=00 (Rs. One Lakh, thirty one thousand four hundred ninety seven only) on account of D.C.R.G. for payment. No dues certificates/LPC may please be sent along with the Bill. Original authority must be enclosed along with the Bill".

An amount of Rs.48277=00 appears to have been deducted from Death-cum-retirement gratuity of the applicant dated 21.08.2002.

3. Having regard to the assertion of the applicant that the two advance increments were rightly given to him, we are of the considered view that the order dated 08.05.1995 ought not to have been passed except after affording an opportunity of showing cause/hearing to the applicant.

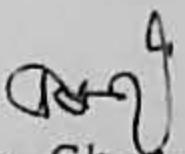
4. In the facts and circumstances, we are, however, of the view that the ends of justice would be best attained if the O.A. is disposed of with a direction that in case the applicant files representation in justification of his claim that the two advance increments were rightly given to him, the Competent Authority

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shall go into the question and decide the representation by means of a reasoned order to be passed and communicated to the applicant within a period of two months from the date of filing of the representation along with copy of the order. Respondents are further directed to give personal hearing to the applicant before disposing of his representation. It goes without saying that in case the representation is decided in favour of the applicant, amount recovered from his Death-cum-retirement gratuity shall be refunded within a period of one month from the date of such decision.

5. Accordingly, the O.A. is disposed of with no order as to costs.

  
Member-A.

  
Vice-Chairman

Manish/-