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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No. 187 of 198⁶
T.A. No.

DATE OF DECISION 26.11.'86

SHRI P. S. OZA Petitioner

SHRI P. S. OZA (P in P) Advocate for the Petitioner(s)

Versus

UNION OF INDIA & ORS. (REVENUE Respondent
DEPT.)

SHRI R. P. BHATT Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. P. H. TRIVEDI ... Vice Chairman

The Hon'ble Mr. P. M. JOSHI ... Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal.

Per: Hon'ble Shri P. H. Trivedi, Vice Chairman

JUDGMENT

The applicant, Shri P.N.Oza, after being discharged from the Armed Forces, joined the Income Tax department on 1.6.'73, but his pay was not fixed by the department and on March 22, '74, some circulars were shown to him under which he had to exercise option for refixation of pay under the orders O.M.No.8(34)-E. III/57 dated 25.11.'58 or as per the orders dated 11.4.'63. These orders were not available in the office of Appellate Asst. Commissioner of Income Tax, Bhavnagar, but ^{applicant's} the signature was taken to show that they were shown to him. The applicant did not know how to exercise his option. No guidance was given to him and nothing was communicated to him as to how he should proceed about it. When he came to know of F.R. 27, which gives benefit of pay fixation at a higher stage to discharged Army Personnel, he applied on 30th June, '79 for refixation of ^{his} pay scale with effect from 1st June, '73, and after several applications and representations finally the Central Board of Direct Taxes intimated by their letter of 10th April, '76, that while arrears were not allowed to him prior to 30.8.'83, after that date his pay fixation ^{be} was done. The respondent, have not given any reply, although allowed an opportunity for this purpose.

2. After hearing the applicant and the learned advocate for the respondent Shri R.P.Bhatt, we find that after conceding that pay fixation should be done, there is no reason for withholding arrears. The respondent has allowed pay fixation from 30th August, '83, but have not allowed pay refixation from the date of

application for it. The application for the pay refixation is dated 30th January, '79, and there is no reason why this sanction should not have been allowed from that date. In fact, the applicants case could be that the time was spent only because the relevant circulars and manual were not available. It is a common experience in Government offices that important manuals are out of print and important instructions and circulars are not handy. Not only does the public suffer but even the Government servants themselves cannot pursue their legitimate claims for want of such material. The experience of the applicant regarding running from pillar to post in search of relevant circulars and instructions is entirely credible. However, even if the commencement of the claim cannot be put prior to the date of his application viz. 30th January, '79, there is no reason why sanction for the fixation of pay etc. should not be given effect from that date. We, therefore, direct that the sanction dated 30th August, '83, should be applicable from 30th January '79 and the claim of the applicant be calculated accordingly and paid to him within a period of three months. No order as to costs.

P. H. Trivedi
(P. H. TRIVEDI)
Vice Chairman

P. M. Joshi
(P. M. JOSHI)
Judicial Member