

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH,
JODHPUR

...

Date of Order : 10.1.2002.

O.A.NO. 65/2001

Balkish Chander S/o Shri Mangu Ram aged about 63.5 years, resident of 17, Dhillon Colony, Hanumangarh Jn. Distt. Hanumangarh, last employed on the post of Income Tax Officer in Income Tax Office, Hanumangarh Jn.

.....Applicant.

versus

1. Union of India through Secretary to Govt. of India, Ministry of Finance, Department of Revenue, North Block, New Delhi.
2. The Chief Commissioner of Income Tax, Statue Circle, CR Building, C-Scheme, Jaipur.

Chairman, Central Board of Direct Taxes, North Block, New Delhi.

.....Respondents.

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HON'BLE MR.GOPAL SINGH, ADMINISTRATIVE MEMBER

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- Mr. J.K.Kaushik, Counsel for the applicant.
- Mr. H.S.Rathore, Advocate, Brief Holder for
- Mr. Sandeep Bhandawat, Counsel for the respondents.

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ORDER

BY THE COURT :

In this application under section 19 of the Administrative Tribunals Act, 1985, applicant, Balkish Chander has prayed for a direction to the respondents to calculate his pensionary

Gopal Singh

benefits on the basis of last pay drawn by him at the rate of 3,500/- per month and accordingly release all the arrear payments along with interest.

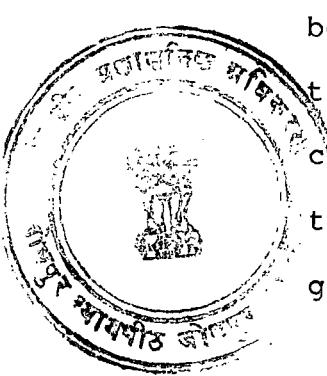
2. Applicant retired from the post of Income Tax Officer on 31.7.1995. It is seen from the records that the Department has taken a view that stepping up benefits were wrongly given to the applicant some time in 1977 when he was promoted from the post of Head Clerk to that of ~~XXXXXX~~ Inspector. This wrong fixation of pay has now been pointed out by the Zonal Accounts Office and it has been proposed by the Zonal Accounts Office to calculate his pensionary benefits on the reduced pay by disallowing the stepping up benefit given to him earlier and as per the calculations shown by the Zonal Accounts Office, his average pay for the last ten months comes to Rs. 3087.50 whereas the applicant was drawing pay of Rs. 3,500/- at the time of his retirement. There was no order from the department side to dis-allow the stepping up benefit to the applicant. Thus, the pensionary benefits of the applicant are sought to be revised on this account without any notice to the applicant. It is also seen from the records that some of the similarly situated employees whose stepping up benefit given earlier was withdrawn, had approached this Tribunal earlier vide R.P.No. 35/86 (TA No. 529/86) decided on 13.7.1990. The Tribunal in its order dated 13.7.1990 passed in R.P.No. 35/86 (TA No. 529/86), restrained the Department from stepping down the pay of the applicants therein and wherever the pay was stepped down and recovery was effected, the department was directed to refund the amount to the applicants. This decision of this Tribunal has attained finality and has also been implemented by the Central Board of Direct Taxes. I am firmly of the view that the case in hand is squarely covered by the judgement and

Leopold J



order dated 13.7.1990 passed in R.P.No. 35/86 (TA NO. 529/86). Accordingly, I pass the order as under :-

Following the detailed reasons recorded in this Tribunal order dated 13.7.1990 passed in R.P. No. 35/86 (TA NO. 529/86), this O.A. is allowed. The Respondents are directed to calculate the pensionary benefits of the applicant on the average pay of the last ten months actually drawn by the applicant (and not after stepping down the pay of the applicant as has been suggested by the Z.A.O.) and pay to the applicant his entitlement of pension, arrears of pension, death-cum-retirement-gratuity, leave encashment and other retiral benefits, on the basis of revised pension calculated under these orders, along with interest at the rate of 12% per annum compounding annually from the date the payment became due till the date the payment is actually made. The Respondents are given three months time to comply with these orders. No costs.


Gopalsingh
(Gopal Singh)
Administrative Member.

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Received

DAW

18/1/2002

Received

Alf Alf

22/2/2002

Part II and III destroyed
in my presence on 20/6/02
under this supervision of
Section Officer () as per
order dated 14/5/02

Section Officer (Record)