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Central Administrative Tribunal  
Jodhpur Bench, Jodhpur

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Date of Order : 21.8.2002

1. O.A. NO. 127/2001
2. O.A. NO. 128/2001

1. Mrs. Aliamma Mathew wife of Shri N.P. Mathew, aged about 49 years, at present employed on the post of Stenographer Grade II, in the Income Tax Office, 6 New Fatehpura, Udaipur.
2. R.L. Meena S/o Shri Peethaji Meena, aged about 50 years, at present employed on the post of Office Superintendent, in the Income Tax Office, 6 New Fatehpura, Udaipur.
3. C.L. Meena S/o Shri Chaukhaji Meena, aged about 47 years, at present employed on the post of Inspector of Income Tax, in the Income Tax Office, 6, New Fatehpura, Udaipur.
4. Jeevat Ram Darange S/o Shri Dhandas, aged about 37 years, at present employed on the post of Stenographer Grade II, in the Income Tax Office, 6, New Fatehpura, Udaipur.

C/o Shri N.K. Gehlot, Vijay Chowk, Near Krishna Mandir, Jodhpur.

..Applicants in  
OA NO.127/2001

Versus

1. Union of India through Secretary to Government of India, Ministry of Finance (Department of Revenue) CBDR, 150, North Block, New Delhi.
  2. Chairman, Central Board of Direct Taxes, 150, North Block, New Delhi.
  3. Chief Commissioner of Income Tax, Rajasthan, Jaipur, Statute Circle Scheme, Jaipur.
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4. Dy. Commissioner of Income Tax, Special Range,  
Udaipur.

.....Respondents.

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N.K. Gehlot S/o Shri Mangilal Gehlot, aged about 50 years, resident of Vijay Chowk, Near Krishna-mandir, at present employed on the post of Office Superintendent in the office of Commissioner of Income Tax, Pata 'C' Road, Jodhpur.

... Applicant in OA  
No. 128/2001.

Versus

1. Union of India through Secretary to Government of India, Ministry of Finance (Department of Revenue )  
CBDT, 150 North Block, New Delhi.
2. Chairman, Central Board of Direct Taxes, 150, North Block, New Delhi.
3. Chief Commissioner of Income Tax, Rajasthan Circle, Jaipur, Statute Circle, C Scheme, Jaipur.
4. Income Tax Officer (Hqrs), Jodhpur, Office of the Commissioner of Income Tax, Jodhpur.

..... Respondents.

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CORAM :

HON'BLE MR. A.P. NAGRATH , ADMINISTRATIVE MEMBER

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Mr. B. Khan, Counsel for the applicants

Mr. Sandeep Bhadawat, Counsel for the respondents.

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ORDER

BY THE COURT :

In both the O.As controversy has arisen on account of Government of India, Ministry of Finance, letter dated 17.11.2

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denying grant of advance increments to the applicants, therefore, these applications are being disposed of by this common order.

2. In O.A. No. 128/2001, there is one applicant and in O.A. No. 127/2001, there are four applicants.

3. As per the rules applicable in the department, a departmental examination is held for Income Tax Inspectors. The related provisions have been enumerated in Annex. A/3. In para No. 4.2 of the said letter, the categories of persons eligible to appear in the examination, have been indicated which include any person holding the post of Supervisor, Head Clerk, Technical Assistant, Stenographer, Upper Division Clerk etc., possessing the qualifications and the age limits prescribed therein. The applicants had passed this departmental examination while working as Head Clerks or Stenographer-II. Two advance increments were granted to them from the date of passing of the said examination. Vide the impugned letter dated 13.12.2000 (Annex.A/1), a letter from the Under Secretary to the Government of India dated 17.11.2000 was circulated communicating the decision that Head Clerks and the Stenographers Grade II are not entitled to grant of advance increments on passing the Inspector's examination. The letter further goes on to direct that recoveries may be made from all concerned officials except those who have got a judgement from C.A.T. in their favour.

4. By filing these O.As applicants have assailed the impugned letter dated 13.12.2000 and the order of recovery.

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By an interim order dated 22.5.2001, the respondents were restrained from effecting any recovery from the pay of the applicants in pursuance of the impugned letters. It was made clear in that order that the applicants shall not be allowed to retain the excess amount of pay so drawn in the event they are un-successful in these O.As.

5. Heard the learned counsel for the parties.

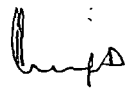
6. The advance increments are being granted in terms of the Government of India, Ministry of Finance, letter dated 9.8.1983 (Annex. A-3/4). The plea of the respondents is that these advance increments are not payable to those who were holding the post of Head Clerks or Stenographers Grade-II at the time of passing of the departmental examination. The learned counsel for the respondents drew my attention to the letter dated 17.11.2000 to stress that this has been the position from the very beginning when the scheme of advance increments was introduced in the Income Tax department. The respondents have not been forth-coming with the clear stand but, in response to my specific query, Shri Sandeep Bhandawat, learned counsel for the respondents stated that only UDCs and Stenographers Grade III were entitled to these advance increments and these are being granted in their favour. Plea of the respondents is that the applicants who were Head Clerks or Stenographers Grade-II at the time of passing the departmental examination, were not entitled to these increments.

7. I have perused the contents of letter dated 9.8.83 which clarifies that "the two advance increments may be

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granted to all persons who have qualified in the departmental examination for promotion to the next higher grade, irrespective of the year of date of passing" (emphasis supplied). This letter is self-explanatory and the simple meaning is that these two advance increments are payable to all persons who qualified in the departmental examination for promotion to the next higher grade. I was informed by the learned counsel for the respondents that the pay scales of Head Clerk and Stenographer Grade-II is Rs. 5000-8000 whereas, that of the Inspector is Rs. 5500-9000. Obviously, a post of Inspector is in the next higher grade. I do not find any logic or rationale in the action of the respondents in denying advance increments to these applicants. In fact, they were granted the same from the date of passing of the examination but now, attempt is being made to withdraw that benefit and to make recoveries. This action of the respondents is not legally sustainable.

8. I, therefore, allow these O.As and quash and set aside the impugned orders dated 13.12.2000 and 17.11.2000 placed at Annex. A/1. In respect of applicant in O.A. No. 128/2001, N.K. Gehlot, the order dated 20.2.2001 (Annex.A/2) is also quashed and set aside. It is held that all the applicants are entitled to the benefit of two advance increments on passing the departmental examination for Income Tax Inspector from the date of passing the said examination. The question of making any recoveries from the applicants does not arise. If, any recovery has been made from Sh.N.K.Gehlot, in pursuance of the order dated 20.2.2001, the same shall be refunded to him within one month from the date of receipt of a copy of this order. No order as to costs.

  
(A.P. Nagrath)  
Adm. Member

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