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**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH**

ORIGINAL APPLICATION NO. 206 OF 2008

Jodhpur, this 25th March, 2009.

CORAM:

**HON'BLE MR. JUSTICE M. RAMACHANDRAN, V.C.(J)
HON'BLE DR. RAMESH CHANDRA PANDA, MEMBER (A)**

**Sh. L. Sakhrani
S/o Sh. Goru Ram Sakharani
Retired Income Tax Inspector
Office of ITO Ward 2(2)/TDS, Range II,
Jodhpur.**

.... Applicant

(By Advocate: Mr. Kamal Dave)

VERSUS

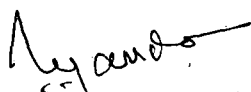
1. Union of India
through the Secretary
Ministry of Finance,
Department of Revenue
Government of India,
New Delhi.
2. Commissioner of Income Tax, I,
Ayakar Bhawan,
Paota 'C' Road,
Jodhpur.
3. Zonal Accounts Officer,
Zonal Accounts Office,
Central Board of Direct Taxes (CBDT),
New Central Revenue Building,
Statue Circle,
Jaipur.

.... Respondents

(By Advocate: Mr. Varun Gupta)

**: O R D E R (ORAL) :
Hon'ble Dr. Ramesh Chandra Panda, Member (A):**

Sh. L. Sakharani, the applicant herein, has challenged the orders of the respondents in not paying him the interest after his pay has been re-fixed besides the refund of the recovered amount. He has, therefore, demanded the payment of interest sanctioned as per the order dated 21.05.2008 (Annex.A/4).



2. The facts of the case captured in nutshell are that the applicant, who was appointed to the post of L.D.C. in 1969 was allowed two advance increments in May 1990. Subsequently, the deductions made by the respondent – Department were challenged by the applicant before this Tribunal in **OA No. 336/2005**. As per the order dated 14.11.2006, this Tribunal while allowing the O.A., decided as follows:-

"6. In the premises, the Original Application has ample force and deserves acceptance. The same stands allowed accordingly. The impugned orders dated 1.12.97 (Annex.A/1) and 8.11.2005 (Annex. A/2) are hereby quashed. The applicant shall be entitled to all consequential benefits including the refund of any amount deducted from the DCRG amount payable to him and also the revision of pensionary benefits etc. The due amount shall carry an interest @ of 8% p.a. This order shall be complied with within a period of three months from today. No costs."

3. We have heard the contentions advanced by Mr. Kamal Dave, the learned counsel for the applicant and Mr. Varun Gupta, learned counsel for the respondents. We have also very closely gone through the pleadings as well as the records available in this case.

4. On behalf of the applicant, Mr. Kamal Dave contended that the respondents had not complied with the directions of this Tribunal in so far as the payment of interest at 8% is concerned. The said interest amount has been worked out as Rs.15620/- (**Annex-4**). Such inaction, in spite of the direction of the Tribunal, should be termed as contempt. However, the learned counsel for the applicant submitted that the applicant would be satisfied if the amount sanctioned by the respondents at **Annex-4** could be paid to him early.

5. On the other hand, Mr. Varun Gupta, learned counsel for the respondents informed that Rs. 33000/- being the recovered amount from the DCRG of the applicant, as per the directions of the Tribunal the same had been already credited to the applicant's bank account.

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He also highlighted the intention of the respondent 2 to pay the interest ordered by the Tribunal but submitted the objection raised by Pay and Accounts Officer who had prevented them to pay the sanctioned interest. The objection seems to be that interest is not admissible on pension and commuted values of pension vide the letter dated 10-10-2008(**Annex R-1**). He submits that the refunded amount of the recovered amount is those of the DCRG and not pension.

4. The short question for our consideration and determination is that whether as per the Tribunal's order vide order dated 14-11-2006 the applicant is entitled to the interest at 8% per annum on Rs. 33000/- being the refunded amount on account of improper recovery effected earlier?

5. The learned counsel for the respondents submits that though the sanction order has been issued by the respondent department, the Pay & Accounts Officer of the Department is not permitting to allow the bill for payment of interest to the applicant on the ground that the rule position does not permit payment of interest on the pensionary benefits.

6. We have carefully gone through the rule position which indicates that in the matters of delayed payment of leave encashment, the Department of Personnel and Training in their Note dated 2.8.1999 had clarified that there is no provision under the CCS (Leave), Rules for payment of interest or for fixing the responsibility. In the present case, it is not the question of fixing interest on the belated payment of the leave salary but, it is the question of fixing the pay of the applicant on getting his regular increment w.e.f. 25.02.1990 up to 1.4.2005 (**Annex.A/2**), and finalizing the refund of Rs.33000/-improperly recovered from the applicant's DCRG on the basis of which and as per

Agenda


the direction of this Tribunal dated 14.11.2006 the payment of the interest to the applicant has been worked out. The said interest amount has been worked out as Rs.15620/- (**Annex-4**). We find that the rules and the instructions cited by the Zonal Accounts Office in his letter dated 10-10-2008 are not applicable in the present case.


7. Further, this Tribunal in OA No. 336/2005 while allowing the Original Application decided on 14.11.2006 and directed that "the applicant shall be entitled to all consequential benefits including the refund of any amount deducted from the DCRG amount payable to him and also the revision of pensionary benefits etc. The due amount shall carry an interest @ of 8% p.a." On a query from us the learned counsel for the respondents informed that no appeal was filed before Honourable High Court against the order of this Tribunal in OA No. 336/2005. Thus in our considered opinion the order of the Tribunal has reached finality and the respondents are duty bound to implement the order dated 14-11-2006 in OA No. 336/2005. We also find that Respondent 2 and 3 are jointly responsible to implement remaining part of the decision.

8. In view of the above facts and circumstances of the case and taking into account the decisions of this Tribunal directing the respondents to pay interest at the rate of 8% per annum to the applicant which has been worked out to be Rs.15620/- the respondents No. 2 and 3 are directed to make payment of interest of Rs.15620 as already calculated by the Income Tax Officer [Ward-1 (1)/DDO] in its order dated 21.5.2008 to the applicant within one month from the date of receipt of a certified copy of this order. It is also directed that if the payment of interest of Rs.15620/- is paid to the applicant after the said period of one month, cost of Rs. 10000/- shall be paid by the respondent Department to the applicant. The

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respondent no-1 is directed also to fix the responsibility for such belated payment of interest to the applicant and effect recovery of the cost from such official(s). It is needless to state that if the applicant is aggrieved by the action / inaction of the respondents, he would be at liberty to take appropriate legal remedy in the matter. With the above directions to the respondents this Original Application is disposed of.


(Dr. Ramesh Chandra Panda)
Member (A)


(Justice M. Ramachandran)
Vice Chairman(J)

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1/4/09.

Received Copy
Bills
2/4/09.
(L. SAKH RANE)

Part II and III destroyed
in my presence on 2/8/12
under the supervision of
section officer () as per
order dated 07/07/2015
Section officer (Record)