

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

Original Application No. 290/00152/14

Jodhpur, this the 22nd day of April, 2015

CORAM

Hon'ble Ms. Meenakshi Hooja, Administrative Member

Ashok Kumar Solanki S/o Late Shri Santu Lalji Solnki, age 46 years, resident of 135 B, Prithvipura, Rasala Road, Jodhpur-242010 (Mobile No. 9530400793), presently posted as Senior Tax Assistant in the office of the Joint Commissioner of Income Tax (Central), Paota C Road, Jodhpur.

.....Applicant

By Advocate: Mr. Surendra Mehta.

Versus

1. Union of India through Secretary to Govt. of India, Ministry of Finance, Dept. of Revenue, CBDT, North Block, New Delhi.
2. Chief Commissioner of Income Tax (CCA), C R Building, Statue Circle, B D Road, Jaipur.
3. The Zonal Accounts Officer, CBDT, Paota B Road, Near Hanwant Hostel, Jodhpur.

.....Respondents

By Advocate : Mr Sunil Bhandari.

ORDER

This OA has been filed under Section 19 of Administrative Tribunals Act, 1985 challenging the letter No. 1463 Bill Return

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i.e. Zonal Accounts Officer, CBDT, Jodhpur and seeking following relief(s):-

- (i) That the impugned order dated 14.08.2013 (Annex. A/1) passed by 3rd respondent may be declared illegal and the same may be quashed. The respondents may be directed to grant two advance increment from the date of passing the ITI Examination i.e. 28.12.2012 as per the verdict of this Hon'ble Tribunal in case of Mrs Allamma Mathew and others vs Union of India, OA No. 127 & 128 of 2002, supra and allow all consequential benefits including the payment of difference of arrears thereof along with interest at 9%.
- (ii) That the costs of this application may be awarded.

2. It has been averred in the OA that the applicant was initially appointed to the post of Chowkidar and joined the Income Tax Department on 29.03.1993. After passing various departmental examinations and getting promotions he was promoted to the post of Senior Tax Assistant on 25.09.2009 and continues on this post till today. He appeared in the Income Tax Inspector (ITI) Examination conducted by the Department in September, 2012 and was declared successful vide letter No. CCIT/JPR/E-2/Exam-ITI/2013-14/449 dated 22.04.2013 (at S. No. 28) by the Chief Commissioner of Income Tax, Jaipur as at Annex. A/2. It has been further averred that the applicant is holding the post of Senior Tax Assistant in the Grade Pay of Rs 4200/- whereas the post of ITI is of higher grade i.e. Grade Pay of Rs 4600/-. Admittedly, the post of ITI is of higher responsibility in comparison to the post of Sr. Tax Assistant.

passing departmental examination for ITI and this issue has already been adjudicated by this Hon'ble Tribunal at Jodhpur in OA No. 127 & 128 of 2002 in case of Mrs Aliamma Mathew & Ors vs UOI decided on 21.08.2002. It has been further averred that the Income Tax Officer (ITO) (Int.) and DDO, Jodhpur passed the fixation order by granting two advance increments on passing the departmental examination conducted for ITI and accordingly pay of the applicant was ordered to be raised from Rs 10,750/- to Rs 11,750/- with effect from 28.12.2012 as at Annex. A/3. Further, the ITO (Int.) & DDO, Jodhpur sent the bill along with fixation order to respondent No. 3 i.e. Zonal Accounts Officer, Jodhpur but the 3rd respondent returned back the same vide Bill Return Memo dated 14.08.2013 (Annex. A/1) with the remark that "as per CBDT order No. A-26017/44/91/AD-IX dated 17.11.2000 the advance increment of Sr. TA is not admissible for passing the ITI Exam. The said advance increment is admissible for passing the ITO Exam." It has been averred that the applicant has been denied the due advance increments just for the reason that he has not undergone into the litigation and the respondents have granted the benefit of advance increments to the various persons on passing ITI Examination who have approached the court of law. It has been further averred that the Central Board of Direct Taxes (CBDT) has made clarification in instruction dated 09.09.2002 that as the result of restructuring the

Assistant was Rs 5000-150-8000 and the grade of Income Tax Inspector was 5500-175-9000. Therefore, the post of ITI is higher to the post Head Clerk/Sr TA and on passing of Departmental Examination two advance increments are admissible and act of respondent No. 3 is not correct and therefore, prayed for the reliefs mentioned above.

3. By way of reply, it has been stated by the respondents that CBDT vide its order dated 20.10.1994 (Annex. R/1) has already clarified that the question of grant of advance increments to the Head Clerks or Stenographers Gr. II for passing the Departmental Examination for ITI does not arise as passing of examination in itself is an incentive to the employees to become eligible for appointment to higher post and thus, no fresh category was ordered to be eligible for grant of advance increments other than the LDCs, UDCs and Inspectors. It has been further stated that the as per CBDT circular dated 17.11.2000 (Annex. R/2), the Stenographers Gr. II, Head Clerks (now designated as Sr. Tax Assistant) and Supervisors are eligible for advance increment only on passing of Departmental Examination for Income Tax Officer 'Group B' and not on passing the Departmental Examination for Inspector. Vide letter dated 09.09.2009, the CBDT has only clarified that the post of Head Clerk is designated as Sr. Tax Assistant and thus the Sr. Tax Assistant passing the Departmental

circular dated 17.11.2000 (Annex. R/2) and on the said basis it has been submitted that none of the grounds raised by the applicant can be sustained and being untenable, the OA is liable to be dismissed.

4. Heard both the parties. Counsel for applicant submits that the applicant appeared in the Income Tax Inspector examination conducted by the respondent-department in September, 2012 and was declared successful vide order Annex. A/2 dated 22.04.2013 at S.No. 28 by the Chief Commissioner of Income Tax, Jaipur and the Income Tax Officer (Int.)/DDO sanctioned two advance increments to the applicant on passing the aforesaid examination vide fixation order dated 08.08.2013 (Annex. A/3). Later the 3rd respondent returned back the same vide bill return memo dated 14.08.2013 (Annex. A/1) with the remarks that "as per CBDT order No. A-26017/44/91/AD-IX dated 17.11.2000 the advance increment of Sr. TA is not admissible for passing the ITI Exam. The said advance increment is admissible for passing the ITO Exam.' In this context, counsel for applicant contended that the two advance increments were always admissible in view of the order of the CAT Jodhpur Bench in OA Nos. 127 and 128 of 2011, which was upheld by the Hon'ble High Court and other more recent orders of the CAT Jaipur Bench, which he submitted on earlier hearing dated 08.04.2015 and now the matter has even been clarified by the

by the competent authority to extend the benefit of two advance increments to the cadres of Senior Tax Assistants and Stenographers Grade-I (erstwhile stenographers Grade II in the pre-revised scale of Rs 5000-8000) on passing the Departmental Examination for Income Tax Inspectors." In view of the above, counsel for applicant submitted that the due advance increments be granted to the applicant by respondents alongwith payment of interest on arrears, and cost of the litigation may also be awarded.


5. Per contra, counsel for respondents contended that the matter of granting two advance increments of Senior Tax Assistant on passing of Income Tax Inspector examination was under consideration of the respondent-department and it has only recently been decided by the CBDT vide Instructions contained in letter No. F.No. C-18013/95/2014-V&L/Ad.IX dated 27.03.2015 to extend the benefit of two advance increments to the cadre of Senior Tax Assistants and Stenographer Grade-I (erstwhile Stenographer Gr. II in the pre-revised scale of Rs 5000-8000) on passing the Departmental Examination for Income Tax Inspector. Therefore, the applicant is entitled to get two advance increments in view of aforesaid instructions and further as the matter has been decided recently no case of grant of interest on arrears is made out.

Counsel for respondents further submitted that in view of the

respondent-department may have already decided the case to grant two advance increments to the applicant and he does not have information about the exact decision of the respondent-department in the matter but can definitely say that the respondent-department will act upon the Instructions. In this context counsel for applicant submitted that so far the applicant has not been granted the benefit of two advance increments.

6. Considered the contentions of both the parties and perused the record. In view of the recent CBDT instructions in letter No. C-18013/95/2014-V&L/Ad.IX dated 27.03.2015 , the respondents are directed to consider the case of the applicant and extend the benefit of two advance increments on passing the Departmental Examination for Income Tax Inspector in accordance with the Instructions. The respondents are further directed to consider and decide the case within two months from the date of receipt of this order. As regards grant of interest, the applicant may file a representation before the competent authority, if so desired.

7. The OA is disposed of in terms of aforesaid directions, with no order as to costs.


[Meenakshi Hooja]
Administrative Member