

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

Original Application No. 290/00162/14

Jodhpur, this the 22nd day of April, 2015

CORAM

Hon'ble Ms. Meenakshi Hooja, Administrative Member

1. Gour Chandra Dey S/o Shri Mrinal Kanta Dey, aged about 37 years, at present employed on the post of Senior Tax Assistant in the office of Deputy Commissioner of Income Tax, Central Circle, Aaaykar Bhawan, Ranibazar, Bikaner.
2. Mohd. Qaisar Ussmani S/o Shri Samluzzama, aged 36 years, at present employed on the post of Senior Tax Assistant in the office of ITO Ward-I (3), Commissioner of Income Tax, Aaaykar Bhawan, Ranibazar, Bikaner.
3. Gopal Prasad Chourasia S/o Shri Kishori Prasad, aged about 38, at present employed on the post of Senior Tax Assistant in the office of ITO Ward-2, Near Collectorate, Hanumangarh Jn.
4. Rohit Raj Bhati S/o Shri Poonam Chand Bhati, aged 30 years, at present employed on the post of Senior Tax Assistant in the office of ITO Ward-2(2), Commissioner of Income Tax, Aaaykar Bhawan, Ranibazar, Bikaner.

Address for correspondence : C/o Gour Chandra Dey, Qtr. No. 17 Type III, Aaaykar Colony, Shivbari Chouraha, JNV Colony, Bikaner – 334001.

.....Applicant

By Advocate: Mr. J.K. Mishra.

Versus

1. Union of India through Secretary to Govt. of India, Ministry of Finance, Dept. of Revenue, CBDT, North Block, New Delhi-11.
2. Central Board of Direct Taxes through its Chairman, North Block, New Delhi-110001.
3. Chief Commissioner of Income Tax (CCA), C R Building, Statue Circle, B D Road, Jaipur.
4. Dy Commissioner of Income Tax, Central Circle, Aaaykar Bhawan, Ranibazar, Bikaner-334001.
5. Commissioner of Income Tax, Aaaykar Bhawan, Ranibazar, Bikaner-334001.

.....Respondents

By Advocate : Mr Sunil Bhandari.

ORDER

This OA has been filed under Section 19 of Administrative Tribunals Act, 1985 seeking following relief(s):-

- (i) That the applicants may be permitted to pursue the joint application on behalf of four applicants under rule 4(5) of CAT Procedure Rule, 1987.
- (ii) That impugned Orders dated 19.09.2012 (A/1), 10.01.2014 (A/2), 10.01.2014 (A/3) and 30.01.2014 (A/4), respectively issued in pursuance with various clarifications of CBDT i.e. 2nd respondent in cyclostyled way with same wordings, may be declared illegal and the same may be quashed. The respondent may be directed to grant two advance increments to the applicants from the date of tier passing the ITI examination and allowed with all consequential benefits including the payment of arrears thereof along with interest at 9% p.a.
- (iii) That any other direction, or orders may be passed in ~~the applicants~~ which may be deemed just and

(iv) That the costs of this application may be awarded.

So far as the relief No. 1 regarding pursuing the application jointly on behalf of four applicants is concerned, they are allowed to pursue the matter jointly as the relief being sought is common and similar arising due to similar/identical orders.

2. The brief facts of the case, as averred by the applicants, are that the applicants were initially appointed to the post of Tax Assistant in the various offices under respondent No. 2 and all of them enjoyed their promotions to the post of Senior Tax Assistant in the pay scale of Rs 9300-34800 plus Grade Pay Rs 4200/- vide order dated 05.04.2011 (Annex. A/5) and their names are placed at S.No. 57, 93, 87 and 85 respectively. That the persons holding the post of Senior Tax Assistant and Steno Gr. II are eligible to appear for Income Tax Inspector (ITI) examination required for promotion to the post of ITI in Income Tax Department. Both the cadres are placed in PB-2 with G.P. Rs 4200/- feeder cadre for promotion to the post of ITI in PB-2 with G.P. Rs 4600/-. The applicant No. 1 passed the Departmental Examination in the year 2011 for promotion to the post of ITI (Annex. A/6) and other applicants also passed the ITI examination held in September, 2012 vide letter dated 22-23.04.2013 and their names are placed at S.No. 29, 30 and 12 respectively (Annex. A/7). It has been further averred that the applicants are holding the post of Sr.T.A. in the

responsibility in comparison to the post of Sr. Tax Assistant and as per rules benefit of two advance increments is admissible on passing the Departmental Examination for higher grade. It has been further averred that various posts were re-designated for the purpose of grant of advance increments vide letter dated 09.09.2009 (Annex. A/8) and Head Clerk has been re-designated as Senior Tax Assistant. As per Board's Circular dated 19.07.2001, the recruitment rule of Sr. Tax Assistant in the pay scale of Rs 5000-150-8000 has been given. After restructuring the pay of ITI have been fixed in the pay scale of Rs 5500-175-9000, which has been upgraded to the time scale of Rs 6500-200-10500 w.e.f. 01.04.2004 which shows that at the time of restructuring as on date of this letter the Sr. Tax Assistants are having the grade below the ITI. It has been further averred that the grant of two advance increments have already been adjudicated and settled by this Tribunal at Jodhpur Bench in the case of Mrs Aliamma Mathew and others vs. Union of India, OA No. 127 & 128 of 2002, decided vide order dated 21.08.2002 and the same was upheld by Hon'ble Rajasthan High Court at Jodhpur in DBCWP No. 800/2004 vide judgment dated 11.12.2006. It has been held that the applicants therein who were Head Clerks at the relevant time were entitled to the benefits of two advance increments from the date of passing of ITI examination and the Head Clerks, have been re-designated as Sr.

two advance increments but the same have been turned down abruptly in almost identical/cyclostyled language vide letters dated 19.09.2012, 10.01.2014, 10.01.2014 and 30.01.2014 respectively and they have been sought to have been issued in pursuance of various clarifications of Central Board of Direct Taxes (CBDT) i.e. the second respondent. It has been averred that the applicant have been denied due increments just for the reasons that they have not undergone into litigation. It has also been submitted that similarly situated persons have been allowed the same benefits e.g. Pooran Mal Verma in OA No. 513/2009 vide order dated 05.09.2009, Dinesh Chand Meena in OA No. 835/2012 decided on 19.07.2013 by Jaipur Bench of this Tribunal and have therefore, prayed for the OA being allowed.

3. Counsel for respondents submitted that the reply filed in OA No. 290/00152/14 may be considered for the present OA also as the issues and controversy in both the OAs are similar.

4. Heard both the parties. Counsel for applicant submits that all the applicants vide separate orders Annex. A/1, A/2, A/3 & A/4 have been denied the benefits of two advance increments on passing of the Departmental Examination for Income Tax Inspector while holding the post of Senior Tax Assistant. The applicant No. 1 passed the aforesaid examination in the year 2011 and other applicants have passed the examination in the year 2013. The

have been denied two advance increments on the ground that such increments are only allowed on passing the examination for Income Tax Officer (ITO) examination though recently Jaipur Bench of this Tribunal has allowed them benefits to avail advance increments on passing of Departmental Examination for Income Tax Inspector while deciding OA No. 96/2012 on 15th Jan., 2013 and OA No. 835/2012 on 19.07.2013. Moreover, recently the CBDT has also vide its Instruction dated 27.03.2015 has clarified that :

“It has been decided 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.”

Accordingly, counsel for applicants prayed that OA may be allowed and the applicants may be granted two advance increments in view of the CBDT circular dated 27.03.2015 and interest due on arrears may also be paid.

5. Counsel for respondents submitted that in this context in a similar OA No. 290/00152/14 he has filed the reply and the applicants are entitled for two advance increments in view of the clarificatory Instructions contained in No. F.No. C-18013/95/2014-V&L/Ad.IX dated 27.03.2015 issued by the CBDT and in this OA, the applicant No. 1 Shri Gour Chandra Dey has already been

6. Considered the rival contentions and perused the record. In view of the CBDT Instruction No. F.No. C-18013/95/2014-V&L/Ad.IX dated 27.03.2015 dated 27.03.2015 and sanction order in respect of the applicant No. 1 issued by the respondents, the respondents are directed to consider the cases of other remaining applicants and issue required orders, within a period of 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

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