

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. NO. 478/2002

WEDNESDAY, THIS THE 6th DAY OF OCTOBER, 2004

C O R A M

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN
HON'BLE MR. H.P. DAS, ADMINISTRATIVE MEMBER

M.K. Antony
Notice Server
Office of the Additional Commissioner
of Income Tax, Range-2
Aayakar Bhavan
Manachira, Calicut.

Applicant

By Advocate M/s P. Santhoshkumar & TA Rajan

Vs.

1. Union of India represented by
the Secretary to Government of India,
Ministry of Finance
New Delhi.
2. The Assistant Commissioner of Income Tax
Circle-1(2), Range-I
Central Revenue Building
I.S. Press Road,
Ernakulam.
3. The Additional Commissioner of Income Tax
Range-2, Aayakar Bhavan
Manachira, Calicut.

Respondents

By Advocate Mr. C. Rajendran, SCGSC

The Application having been heard on 22.7.2004 the Tribunal
delivered the following on 6.10.2004.

O R D E R

HON'BLE MR. H.P. DAS, ADMINISTRATIVE MEMBER

The matter raised in this Application is identical
with that raised in O.A. No.75 of 2002 which has already
been disposed of by this Tribunal with the following
observations:

"We have gone through the pleadings and
materials placed on record and have heard the learned
counsel on either side. An identical issue was
considered by this Tribunal in O.A. NO. 74/2002.
It was noticed that the undertaking given in that
case on 23.10.1997 similar to Annexure R-3 in this
case did not cover the wrong payment made while the
pay was refixed in the upgraded scale. Since the

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undertaking does not cover the second fixation of pay and grant of two advance increments which was not really called for and the applicant not being responsible for the alleged overpayment in view of the decision of the Apex Court in Shyam Babu Verma & Others Vs. Union of India & Others (1994 2 SCC 521) this Bench held that recovery was not justified. The facts are identical. The pay fixation which resulted in overpayment was not covered by the undertaking given by the applicant in this case. The undertaking was in regard to fixation of pay on implementation of the Vth Central Pay Commission report. The present overpayment arose on account of fixation of pay in the scale of Rs. 3050-4590 regarding which the applicant had not given any undertaking. Therefore, we respectfully follow the decision of this Tribunal in O.A. NO. 74/2002 and hold that the respondents are not entitled to recover the overpayment in this case.

2. Both of us constituted the bench that had disposed of the matter in the above line. In pursuance of the same line, we set aside Annexure A-1 order and allow the Application directing the respondents not to recover the overpayment. No order as to costs.

Dated 6.10.2004.


H.P. DAS
ADMINISTRATIVE MEMBER

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A.V. HARIDASAN
VICE CHAIRMAN