

**CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH**

Original Application No. 238 of 2005

Monday, this the 15<sup>th</sup> day of January, 2007

**C O R A M :**

**HON'BLE DR. K B S RAJAN, JUDICIAL MEMBER  
HON'BLE MR. N. RAMAKRISHNAN, ADMINISTRATIVE MEMBER**

1. E. Padmanabhan,  
S/o. Late K. Govindan Nair,  
Inspector of Income Tax,  
Office of the Additional Commissioner of  
Income Tax, Municipal Buildings,  
West Fort, Thrissur, Residing at  
C-10, Income Tax Quarters,  
Poothole Road, Thrissur – 4
2. T. Santha,  
D/o. Late Koyyeri Achuthan,  
Private Secretary, Office of the  
Commissioner of Income Tax, Kozhikode,  
Residing at Pournami, Nadakkavu P.O.,  
Kozhikode

... Applicants.

(By Advocate Mr. P. Ramakrishnan)

**v e r s u s**

1. Union of India, represented by the  
Chairman, Central Board of Direct Taxes,  
Ministry of Finance, New Delhi – 110 001
2. The Chief Commissioner of Income Tax,  
C.R. Building, I.S. Press Road, Kochi – 16.
3. The Commissioner of Income Tax,  
Manamchira, Kozhikode. ... Respondents.

(By Advocate Mr. Varghese P. Thomas)

The Original Application having been heard on 15.1.07, this  
Tribunal on the same day delivered the following:



**O R D E R**  
**HON'BLE DR. K B S RAJAN, JUDICIAL MEMBER**

The applicants are aggrieved by rejection of their claim for two advance increments on their having qualified in the Inspectors' Departmental Examination.

2. Brief Facts: Applicants at the material point of time (in 1994 and 1996) were working as Stenographers Gr. II and had qualified in the Inspectors' Departmental Examination. Initially, provision existed, vide Dept. of Revenue OM dated 24-07-1955, for grant of two advance increments to LDCs and UDCs as well as Inspectors on their qualifying in the Departmental Exams prescribed for the higher Grade than the grades in which they were working. Thus, LDCs and UDCs on their passing inspectors Examination were entitled to two advance increments. This benefit of two advance increments was extended to steno typist s and stenographers on their qualifying in the inspectors examination, and to the Head Clerks and Supervisors on their qualifying in the ITO examination, vide order dated 08-12-1960 (Annexure A/2). By an order dated 20-10-1994, it was decided that while the existing scheme of grant of advance increments for Income tax side be continued on historical grounds, no fresh categories of staff could be added to this scheme. In the said order, it was further stated that as per 1960 order the concession was extended to "Stenographer Gr. III" on passing the Inspector Exam and



Head Clerks and Stenographers Gr. II on passing the ITO Exam. It was also stated therein that "The question of grant of advance increment to Head Clerks or Stenographers Gr. II for passing the Inspectors Departmental Examinations does not arise at this stage."

3. The issue whether the stenographers Gr. II who passed the Inspectors Departmental Examination were entitled to two advance increments or not came up for consideration in the Mumbai Bench of the Tribunal in OA No. 591/2001 and the Tribunal vide order dated 19-02-2002 held as under:-

"7. The learned counsel for the applicant has drawn our attention to para 4.7 at page 7 of the OA wherein the grades alongwith their pay scales under the Third, Fourth and Fifth Pay Commission of those grades have been given. Accordingly, Stenographer Grade-II was in the scale of Rs. 425-700 whereas the grade of Income Tax Inspector was in the scale of Rs. 425-800 under the Third Pay Commission which was further revised to Rs. 500-900 w.e.f. 1980-81. After the recommendations of the Fourth Pay Commission, Stenographer Grade II was merged with Stenographer (Selection Grade) and the scale was revised to Rs. 1400-2600. As against this, the grade of Inspectors was given the pay scale of Rs. 1640-2900. After the Fifth Pay Commission's recommendations the distance between the Stenographer Grade II and that of the Inspectors was continued to be maintained. The Stenographer Grade II was merged with Stenographer (Selection Grade) and placed in the scale of Rs. 5000-8000 whereas the Income Tax Inspectors were placed in the scale of Rs. 5500-9000. Looking at this chart, it is very clear that the post of Inspector is higher compared to that of Stenographer Stenographer Grade II. Even under the Third Pay Commission, the maximum of the scale of Inspectors was higher than that of Stenographer Grade II and, therefore, the learned counsel for the applicant presses that Stenographer Grade II which the applicants are holding were rightly given advance increments on passing the



departmental examination for the post of Inspector of Income-tax.

8. The learned counsel for the respondents, however, defended the stand that it is not only the pay scale to be seen but it is for the equivalence of posts and according to the respondents Stenographer Grade II is treated equivalent to that of Inspectors and hence the respondents are justified in withdrawing the advance increments given to the applicants. Further as revealed from the reply dated 13.8.2000 on the representations of the applicants, it appears that the respondents are going by the original pay scales which were which were available to the Stenographers Grade II and the Inspectors under the Third Pay Commission.

9. We have given careful consideration to the rival pleadings. Going strictly by the phrases used in the original scheme the advance increments are to be granted on passing the departmental examination of a higher grade. As far as pay scales are concerned, the grade of Inspector is certainly higher compared to that of Stenographers. The respondents have not produced any material to show that these grades have been treated as equivalent. It is to be seen that even under the Third Pay Commission, from 1980-81 onwards, there has been a hike in the pay scale of Inspectors. We are, therefore, not persuaded to accept the stand of the respondents that the post of Stenographer Grade II and that of Inspector are equivalent. In our considered view therefore, the applicants are not entitled to retain the advance increments already granted to them. We therefore quash and set aside the impugned orders dated 17.11.2000, 29.1.2001 and 13.8.2001. Accordingly, the O.A. succeeds and is allowed without any order as to costs."

4. On the basis of the above, the applicants also claimed their entitled advance increments, vide their Annexure A-4 and A-5 representations. Respondent No. 2 had, vide impugned order dated 20-11-2003 at Annexure A-1 rejected their claim, stating that the above order of the Mumbai Bench of the Tribunal is not applicable to the applicants, since the applicants in the



above OA had qualified in the Departmental examination prior to the issue of Annexure A-2 clarification dated 20-10-1994, while the applicants had qualified later.

5. Through this OA, the applicants have prayed for the following reliefs:-

- (a) Issue an order quashing and setting aside Annexue A/6.
- (b) Hold that the applicants are entitled to two advanced increments in accordance with Anenxure A1, upon passing of the departmental examination for promotion as Inspector of Income Tax in the year 1996 and 1994 respectively.
- (c) Issue an order directing the respondents to grant the applicants two increments for having passed the departmental examination for promotion as Inspector of Income Tax in the year 1996 and 1994 respectively and refix their pay and disburse the eligible arrears, and (d)Such other orders and directions as are deemed fit in the facts and circumstances of the case.

6. Respondents have resisted the O.A. They had reiterated their stand that the Mumbai Bench had only allowed the applicants therein to retain their advance increments already granted to them. It has also been stated, "Obviously the Board's letter No. 26017/44/94/Ad-IX dated 20-10-199 had not been considered by the Hon'ble Central Administrative Tribunal, Mumbai



Bench."

7. Counsel for the applicants argued that the very letter dated 20.10.1994 was misconceived when it 'clarified' that the benefit of two advance increments, on passing the Inspectors examination was admissible to 'Stenographer Gr.III' as per 08-12-1960 Annexure A-1 order since the said order did not distinguish between Gr. III and Gr. II and what was mentioned therein was "stenographers". Even if the post of Stenographer Gr. II would have come into existence subsequently, then also, by detailed discussion in the Mumbai Bench Order, stenographers Gr. II are entitled to the two increments. For, the Mumbai Bench of the Tribunal clearly dealt with the pay scales of Stenographers Grade II, and that of Inspectors and had come to a conscious conclusion that Stenographer grade is NOT at par with the Inspector Grade and thus, further held, "***Going strictly by the phrases used in the original scheme, the advance increments are to be granted on passing the departmental examination of a higher grade. As far as pay scales are concerned, the grade of inspector is certainly higher compared to that of Stenographers. The respondents have not produced any material to show that these grades have been treated as equivalent.***" Thus, the Tribunal had first interpreted the legal provision and telescoping the same upon the facts of that OA, it had held that the applicants therein are entitled to retain their advance increments, as in that case, the applicants were already granted the advance increments,

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which were sought to be withdrawn. Since in this case, the respondents have rejected the claim, applying the legal provision as decided by the Mumbai Bench, the applicants are entitled to the advance increments from the dates they had qualified in the Inspectors departmental examination.

8. The contention that the Mumbai Bench had not considered the order dated 20-10-1994 is untenable as the respondents had not appealed against the order of the Mumbai Bench to declare the same 'per incuriam'. In fact, the counsel for the applicant was right when he contended that the order dated 20-10-1994 was misconceived inasmuch as it had stated that the stenographers Gr. II are not entitled to two advance increments on their qualifying in the Inspectors examination. When Stenographer Gr. II is a grade lower than Inspectors grade, and when, as per order dated 24-07-1955 (Annexure CA I), amplified vide Annexure A-1 order dated 08-12-1960, the benefit of two advance increments is admissible on passing in the departmental examination for "higher grade", obviously, stenographers Gr. II on qualifying in the Inspectors examination become entitled to the two advance increments.

9. In view of the above, the OA succeeds. Annexure A-6 order dated 12.11.2003 is hereby quashed and set aside. It is declared that the two applicants are entitled to the two advance increments in accordance with the provisions contained in Annexure A-1 order read with Annexure A-3 order of

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the Tribunal. Respondents are directed to pass suitable orders granting the entitled advance increments to the applicants, and fix their pay in accordance with rules, for the subsequent periods as well and make available the arrears of pay and allowances arising on account of such revision of pay, within a period of three months from the date of communication of this order.

10. No costs.

(Dated, 15<sup>th</sup> January, 2007)



N. RAMAKRISHNAN  
ADMINISTRATIVE MEMBER



K B S RAJAN  
JUDICIAL MEMBER

CVR.