

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No. 374 of 2007

Thursday, this the 22nd day of November, 2007

C O R A M :

HON'BLE MRS.SATHI NAIR, VICE CHAIRMAN

P.N. Achuthan Nair,
Retd. Office Superintendent (IT Department),
Vezhakkattu House, R-Edamon P.O.,
Ranni, Pathanamthitta Dist : 689 681,
Kerala State. **Applicant.**

(By Advocate M/s. P. Balakrishnan & K.C. Kiran)

v e r s u s

1. Union of India represented by Secretary,
Ministry of Finance, Department of Revenue,
New Delhi.
2. The Secretary,
Ministry of Personnel, Public Grievances
and Pensions, Department of Personnel
and Training, New Delhi.
3. The Zonal Accounts Officer,
Central Board of Direct Taxes,
San Juan Towers, Cochin – 682 018
4. The Chief Commissioner of Income Tax,
C.R. Building, I.S. Press Road, Cochin.
5. The Additional Commissioner of Income Tax,
Kottayam Range, Kottayam. **Respondents.**

(By Advocate Mr. George Joseph, *ACCS*)

O R D E R
HON'BLE MRS. SATHI NAIR, VICE CHAIRMAN

The applicant retired on superannuation as Office
Superintendent in the Income Tax Department, Kottayam, on 30.04.2004.

In this O.A, the applicant has sought following main reliefs:

(a) To quash Annexure A/4 order issued by the 3rd respondent and to direct the 3rd respondent to issue revised order sanctioning the terminal benefits due to the applicant on the basis of the working made by the 5th respondent originally on the eve of his retirement without withholding any DCRG and pay the arrears of terminal benefits flowing therefrom with interest thereon within a reasonable period as this Tribunal considers appropriate in the facts of the case.

2. Applicant's case is that he joined the Income Tax Department in the year 1984 as Upper Division Clerk after rendering the service as Stenographer (Jr.) for certain period and he was promoted to the post of Tax Assistant on 25.01.1996, to the post of Senior Tax Assistant on 5.7.2001 and to the post of Office Superintendent on 29.11.2001. His pay fixation was done on all these occasions. The pension was also worked out by the 5th respondent and based on the service records of the applicant, the pension and other benefits were calculated by the authorities concerned and the same were forwarded to 3rd respondent for issue of sanction order. But the 3rd respondent while issuing the sanction order reduced the commuted value of pension, pension and family pension payable without mentioning any reason for the same. As against this, the applicant filed O.A. No. 539 of 2004 which was disposed of by this Tribunal on 3.3.2006 with a direction to the 3rd respondent to make available to the applicant the difference in pension and other terminal benefits due to him on the ground that no reasons have been given to the applicant for revising the calculations

of pension etc. already granted. The respondents have filed a Writ Petition No. WP (C) 21341/2005 submitting that the revision of pension calculation was necessitated on account of the fact that under the ACP Scheme the applicant had been given benefits which were not due to him since within 24 years he had got 3 promotions with F.R. 22(1) (a)(i) fixations. Hon'ble High Court by finding that this aspect has not been looked into by the Tribunal, directed that the matter should be reconsidered and appropriate order passed by the Zonal Accounts Officer after hearing the applicant. Thereafter, the Zonal Officer has issued Annexure A/4 order dated 20.12.2006 which has been impugned in this O.A.

3. The respondents have filed a detailed reply statement. They have admitted the service particulars of the applicant as stated in the O.A. With regard to the grievance of the applicant, it has been submitted that the applicant has granted two financial upgradations under ACP Scheme when he had already been promoted as Tax Assistant on 25.01.1996. According to the ACP Scheme, two financial upgradations shall be available only if no regular promotion during the prescribed period of 12 and 24 years of regular service has been granted to an employee. At the time of promotion to the post of Tax Assistant, the applicant was granted pay fixation under F.R. 22(1)(a)(i). A clarification had been sought at that time from the Board about the manner in which the pay fixation of Tax Assistant on placement in the scale of pay Rs. 5000-8000 is to be done. The matter was under



consideration of the Ministry of Finance at the time of settlement of the pension of the applicant as informed by the Principal Chief Controller of Accounts, CBDT, New Delhi. On the advice of DOP&T and as clarified by the Board in its letter dated 12.07.04 (Annexure R/7) the office of the Principal Chief Controller of Accounts issued a clarificatory letter dated 3.8.2004 (Annexure A/3 and R/5) and on the basis of this clarification, the applicant's pension calculation had been regulated. The respondents further submitted that the commuted value of pension to the tune of Rs. 2,55,453/- and DCRG to the tune of Rs. 2,18,411/- have been paid in full to the applicant. Hence, all the benefits eligible to the applicant were duly authorised and paid to him as per CCS (Pension) Rules.

4. I have heard learned counsel for the parties and perused the pleadings.

5. The applicant had earlier approached this Tribunal in O.A. No. 539/04 aggrieved that the respondents had not apprised him of the reasons causing revision in the pay fixation of the applicant and it was only before the Hon'ble High Court that the respondents have submitted that the revision was effected due to noticing the fact that the applicant had got three promotions including 2 ACPs with pay fixation under FR 22(1)(a)(i). That time, as explained by the respondents, the question whether the promotion of the applicant from UDC to Tax Assistant was to be considered as a regular promotion was the subject matter of clarificatory correspondence with the Ministry



of Finance and DOP&T. Now the matter has been duly clarified and the respondents have also produced Annexures R/3 O.M. dated 10.02.2000 of Ministry of Personnel, Public Grievances & Pensions (DOPT), R/5 letter dated 3.8.2004 issued by the Office of the Principal Chief Controller of Accounts and R7 letter dated 12.07.2004 of the Central Board of Direct Taxes, New Delhi. The matter has now been clarified by treating the applicant as promoted from UDC to Tax Assistant and his resultant pay fixation under 1st ACP has been given under Rule FR 22(i)(a)(2). Thus the pay fixation of the applicant by the impugned order at Annexure A4 dated 20.12.2006 is found to be well in accordance with the rules. All the amounts due to the applicant, i.e. commuted value of pension, DCRG etc. have been paid to the applicant, the reliefs prayed for by way of an interim order have also been granted to the applicant. This position has also not been controverted by the counsel for the applicant. In these circumstances, I do not find any further grounds to adjudicate this matter.

6. In view of the above, the O.A. fails and it is accordingly dismissed. No costs.

(Dated, the 22nd November, 2007)

Sath Nair
(SATHI NAIR)
VICE CHAIRMAN

cvr.