

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH

Dated this the 19th day of February, 2002

Coram: Hon'ble Mr.Justice Ashok Agarwal - Chairman  
Hon'ble Mrs.Shanta Shastry - Member (A)

O.A.591 OF 2001

1. Sitadevi Balan
2. Mrs.Sreekala Sasikumar Nair
3. Mrs.Stella Richard D'Souza  
(All applicants are working in  
O/o Commissioner of Income-tax,  
City-I, Mumbai, Aayakar Bhavan,  
M.K.Road, Mumbai 400 020  
(By Advocate Shri P.A.Prabhakaran)      - Applicants

VERSUS

1. Union of India  
through the Chairman,  
Central Board of Direct Taxes,  
Department of Revenue, Ministry of  
Finance, North Block,  
New Delhi - 110 001.
2. The Chief Commissioner of Income-tax,  
3rd Floor, Aayakar Bhavan,  
M.K.Road, Mumbai.
3. The Commissioner of Income-tax,  
City - I, 3rd Floor,  
Aayakar Bhavan, M.K.Road,  
Mumbai.  
(By Advocate Shri V.G.Rege)      - Respondents

ORAL ORDER

By Hon'ble Mrs.Shanta Shastry, Member (A) -

The applicants in this case are aggrieved with the impugned letter dated 17.11.2000 whereby they have been denied two advance increments after passing the examination for the post of Income-tax Inspectors. Further recovery of the advance increments paid in the past has been ordered vide letter dated 29.1.2001.

2. According to the applicants a Scheme called "Grant of Advance Increments on passing the departmental examination of the next higher grade, even after reaching of the minimum of the pay

scale of the next higher grade was introduced vide letter dated 6.4.1983 for all Departments of Revenue. It was decided by this letter to do away with the restricting of grant of advance increments to the minimum of the pay scale of Inspectors or Income-tax Officers as the case may be. Sanction was therefore accorded to the removal of the restriction. Thereafter it was clarified vide letter dated 9.8.1993 that two advance increments may be granted to all persons who have qualified in the departmental examination for promotion to the next higher grade irrespective of the year or date of passing but restricting the drawal of the increased pay and allowances from 6.4.1983. Vide another order dated 5.1.1989, sanction was given to continue the scheme further even after introduction of the revised pay scales effective from 1.1.1986. The case of the applicants is that all of them had passed the departmental examination for the post of Inspector of Income-tax in the year 1998 and 1999. The applicant no.2 was granted advance increment and pay was fixed vide order dated 5.1.1999, in the case of applicant no.2 vide order dated 22.2.1999; both were made effective from 17.6.1998. Thereafter vide the impugned letter dated 17.11.2000, the advance increments were withdrawn as already mentioned. A further letter was issued on 11.2.2000 to all the DDOs to withdraw the advance increments and to recover the arrears. This was followed up vide orders dated 29.1.2001 withdrawing the advance increments granted, refixation of pay and revised due and drawn statement showing recoveries of Rs.11,549/-, 15,463/- and Rs.15,462/- in respect of the applicants nos.1, 2 and 3 respectively. Being aggrieved the

applicants made representations on 14.2.2001 and 16.2.2001, followed by further representations on 23.2.2001, 27.2.2001 and 8.3.2001. The representations were rejected on 13.8.2001.

3. The main contention of the applicants is having passed the examination of a grade having a higher pay scale they are entitled to two advance increments as provided in the scheme and, therefore, the impugned orders need to be quashed and set aside.

4. Further an OA was filed by employees under the charge of Chief Commissioner of Income-tax, Kanpur in regard to the same issue and the OA was allowed. However, the learned counsel has not produced any copy of the judgment nor is he able to state whether it is by Allahabad Bench or Lucknow Bench of the Tribunal. The respondents have also not been in a position to produce the relevant judgment.

5. The learned counsel for the respondents resists the claim and submits that the grade of Stenographer - II occupied by the applicants and the post of Inspector of Income-tax have been treated as equivalent and, therefore, unless the applicants passed the examination for the post of Income-tax Officer they were not entitled to advance increments given to them. The advance increments have been given erroneously. The respondents have to withdraw the same.

6. In reply given to the representations on 13.8.2001, it has been stated therein that in compliance of the directions issued by CAT vide order dated 26.4.2001, the issue was examined and it was found that Stenographers are not entitled to advance

increments, for the reason that the Stenographers belonged to Grade II in the scale of Rs.425-700/- (Pre-Revised Scale) corresponding to Rs.5000-8000/- (RPS) and their scales of pay were originally the same as that of the Inspectors. Therefore, there was no question of granting advance increments on passing the Inspectors examination by them. Hence the orders of the Government of India dated 24.7.1955 and 5.1.1989 regarding the scheme of advance increments were not meant for Stenographer Grade II but only for Stenographer Grade-III. This position had been clarified vide the Board's letter dated 12.9.1986 and also vide letter dated 17.11.2000. The learned counsel for the respondents has argued on the same basis.

7. The learned counsel for the applicant has drawn our attention to Para 4.7 at Page 7 of the OA wherein the grades along with 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

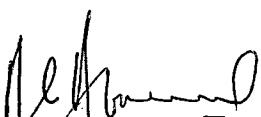
Fifth Pay Commission's recommendations the distance between the Stenographer Grade-II and that of the Inspectors was continued to be maintained. The Stenographer Grade II was merged with Stenographer (Selection Grade) and placed in the scale of Rs.5000-8000/- whereas the Income-tax Inspectors were placed 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 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 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 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.

Shanta S-  
(Smt. Shanta Shastray)

Member (A)

  
(Ashok Agarwal)  
Chairman

mb

Order/Judgement despatched  
to Applicant/Respondent(s)  
on 28.2.2002

*PL  
Tu B.*