

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH

ORIGINAL APPLICATION NO.: 683 of 2001.

Dated this                      the                      day of                      , 2003.

CORAM : Hon'ble Shri D. C. Verma, Vice-Chairman.  
Hon'ble Shri B. N. Bahadur, Member (A).

Shri V. G. Pradhan,  
R/o. Sharda Sadan,  
Fattelalli Road,  
Opp: Municipal School,  
Dombivli (East),  
Dist. Thane - 421 201.

Applicant

(By Advocate Shri P.A. Prabhakaran)

VERSUS

1. Union of India through  
The Secretary,  
Department of Revenue,  
Ministry of Finance,  
North Block,  
New Delhi - 110 001.
2. The Chairman,  
Central Board of Direct Taxes,  
North Block,  
New Delhi - 110 001.
3. The Chief Commissioner of  
Income Tax, Mumbai,  
Aayakar Bhavan,  
M. K. Road,  
Mumbai - 400 020.
4. The Commissioner of Income-Tax,  
City-I, Mumbai,  
3rd Floor, Aayakar Bhavan,  
M. K. Road, Mumbai - 400 020.
5. The Zonal Accounts Officer,  
CBDT, 2nd floor, Aayakar Bhavan,  
M. K. Road, Mumbai - 400 020.

Respondents.

(By Advocate - Shri V. G. Rege)

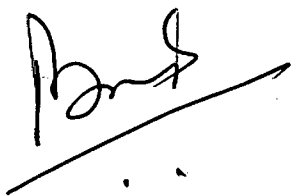
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B. S.



4. In fact, the relief now being sought in the present O.A. is that the Applicant's pay be revised as per C.C.S. Revised Pay Rules 1986 w.e.f. 01.01.1986 and the arrears due, consequentially, be granted to him. In other words, the prayer is that, even though at that time the Applicant was under suspension, the benefit available to him under the facts and circumstances of the case would relate to the revised pay scales in so far as the period after 01.01.1986 was concerned. Learned Counsel, Shri P.A. Prabhakaran, argued that the matter is no longer res-integra and has been settled by the Full Bench of this Tribunal vide its judgement made in O.A. No. 560/96 on ● 26.08.2002.

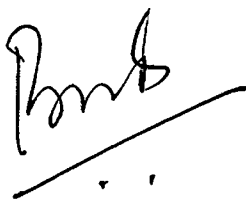
5. Learned Counsel for the Respondents had argued that the arrears would stand restricted. He also raised the issue of limitation, namely - the date of order made by this Tribunal in O.A. No. 1147/94, a copy of which is available at page 26. Learned Counsel, Shri P.A. Prabhakaran had contested this point in brief re-argument. It was argued that the point of limitations is explained at para 3 of the O.A. and that the Applicant has continuously been before the Tribunal right from ● 1988 and is not guilty of any laches. He argued that there was a second and consequential order issued to the impugned order, a copy of which is available at page 23/24. We do not find any date affixed on the copy of this order but the Applicant has stated in his synopsis that it is dated 16.08.2000 and the date is confirmed by Respondents (page 58) of the Written Statement.



6. In fact, the Applicant had filed an M.P. on 03.06.2003 making a prayer that the case be linked to the decision of the Larger Full Bench, which was pending at that point of time O.A. (No. 560/96). The matter in O.A. 560/96 has since been decided by a Five Member Bench of this Tribunal and we shall come to that ahead.

7. The facts of the case and the entire background have been explained very lucidly, in fact, in the statement filed by Respondents on 06.03.2002 (pages 55 to 61). The long history of litigation and the background of the case have been described in detail. Respondents have stated that the Applicant has raised two issues, the first being as to whether subsistence allowance from 01.01.1986 to 28.01.1987 will have to be paid in the revised pay scales consequent to acceptance of Fourth Pay Commission Recommendations and secondly, whether the Applicant is entitled to EBs and for what years. It is also mentioned (para 5 of the Written Statement) that yet another issue relates to the question of treating of suspension period from 19.04.1984 to 28.01.1987. Since the present O.A. seeks relief only in respect of the first issue, we would be dealing here only with that aspect/question.

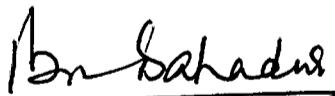
8. On this issue which is before us, the stand taken in argument by Learned Counsel, Shri Prabhakaran, is that the matter is now settled by the Five Member Bench in the aforesaid O.A. 560/96. Learned Counsel for Respondents argued the O.A. on the basis of Written Statement.

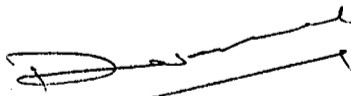


9. We have carefully gone through the papers in the case, considered the arguments made by both Learned Counsel, and importantly, gone through the judgement made by the Five Member Bench of this Tribunal in O.A. 560/96. The issue has been settled in this detailed judgement and we go by this decision. No detailed reasonings need be made, as repetition, to arrive at a conclusion that the subsistence allowance for the period from 01.01.1986 till 28.01.1987 shall indeed have to be paid as per the revised pay scales i.e. the higher pay scales which came into effect from 01.01.1986, consequent upon acceptance of recommendations of Fourth Pay Commission. We direct the Respondents accordingly.

10. In view of the above discussions we order that all arrears due for the period between 01.01.1986 to 28.01.1987 be calculated as per directions in the preceding para and paid to the Applicant within a period of 10 weeks from the date of receipt of a copy of this order. No interest will be payable if this amount is paid in this stipulated time, but if the amount is paid thereafter, simple interest @ 6% shall be payable from the date <sup>the</sup> time limit ends, to the date of payment.

10. The O.A. is allowed in above terms. No order as to costs.

  
 (B. N. BAHADUR)  
 MEMBER (A)

  
 (D. C. VERMA)  
 VICE-CHAIRMAN.

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CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH, MUMBAI

OA.NO.683/2001

Tuesday this the 1st day of April, 2003.

CORAM : Hon'ble Shri A.V.Haridasan, Vice Chairman  
Hon'ble Shri S.K.Hajra, Member (A)

V.G.Pradhan

...Applicant

By Advocate Shri P.A.Prabhakaran

vs.

Union of India & Ors.

...Respondents

By Advocate Shri V.G.Rege

TRIBUNAL'S ORDER

{Per : Shri A.V.Haridasan, Vice Chairman}

This is a Misc. Application filed by the applicant in the Original Application. The applicant filed OA.No.683/2001 seeking the following reliefs :-

"8 (A) To direct the respondents that the applicant's pay be revised in terms of the CCS (Revised Pay) Rules, 1986 with effect from 1.1.1986 and he be granted difference due to him.

(B) To direct the respondents that the retiral dues and pension entitlements be revised in terms of or as a consequence of the orders in prayer (A), orders in the other two connected OAs. separately filed as the case may be.

(C) To direct the respondents to pay interest on the arrears.

(D) To order any other relief that may be deemed fit and proper in the circumstances and on the facts of the case.

(E) To pay the cost of the application."

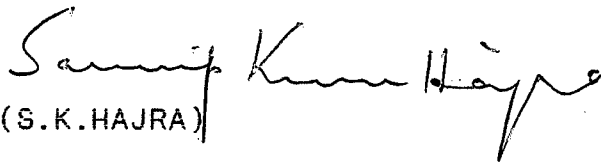
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2. The Original Application was disposed of by order dated 7.2.2003 directing the respondents to pay all the arrears due to the applicant for the period between 1.1.1986 to 28.1.1987 calculating as per the IVth Pay Commission Recommendations. However, nothing was stated in the order regarding the revision of the retiral dues as claimed in sub-para (B) of Para 8 of the application. Therefore, the applicant has filed this application for a Corrigendum or order clarifying the operative part of the order stating that prayer (B) be allowed as a consequential relief to the grant of prayer (A).

3. Shri V.G.Rege, Learned Standing Counsel appearing for the respondents argued that since relief of sub para (B) of prayer 8 has not specifically been granted, the Misc. Application for clarification could not lie. The remedy of the applicant, according to the learned counsel, is either to file review or file an appeal.

4. We have heard the learned counsel on either side. Under Rule 24 Administrative Tribunals (Procedure) Rules, the Tribunal can issue order to avoid miscarriage of justice and to give effect to it's own orders. The revision of pension is a necessary consequence of revision of pay, for pension is to be commuted taking into account the average pay during the last 10 months. By the order of this Tribunal, the applicant's pay had been directed to be revised in accordance with IVth Pay Commission Recommendations, it necessarily follows that his

retiral dues should also be revised. The direction in this regard was not made in the order. We are of the view that the omission was on account of an oversight. Therefore, ~~we~~, to avoid miscarriage of justice and to give effect of the Tribunal's order, we clarify to say the order that it included the direction to the respondents to revise retiral dues to the applicant as prayed for in para (B) of Para 8 in the OA. The respondents are directed to revise pension and other terminal benefits of the applicant in accordance with the pay revision. This should be done within two months from the date of receipt of a copy of this order.

  
(S.K.HAJRA)

MEMBER (A)



(A.V.HARIDASAN)

VICE CHAIRMAN

mrj.

CENTRAL ADMINISTRATIVE TRIBUNAL,  
BOMBAY BENCH, MUMBAI.

C.P.NO.96/2003 in O.A.683/2001.

DATED THIS WEDNESDAY THE 29TH DAY OF JULY, 2009.

CORAM : HON'BLE SHRI JOG SINGH, MEMBER (J)  
HON'BLE SHRI SUDHAKAR MISHRA, MEMBER (A).

Shri V.G. Pradhan,  
Sharada Sadan,  
Opp. Municipal School,  
Dombivli (E), Dist. Thane.  
Maharashtra.

.. Applicant.

( By Advocate Shri S.G. Pillai )

Versus

Smt.Mala Ramakrishnan,  
Chief Commissioner of  
Income Tax, Mumbai,  
3<sup>rd</sup> Floor, Aayakar Bhavan,  
M.K. Road, Mumbai -400020.

.. Respondents.

( By Advocate Shri V.G. Rege ).

ORDER (ORAL)

PER : SHRI JOG SINGH, MEMBER (J).

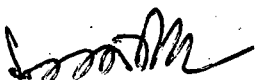
The present Contempt Petition is directed against the non-implementation of the directions contained in the order dated 02.02.2003 read with order dated 01.04.2003 passed in O.A.683/2001. The respondents have now revised the pension and terminal benefits of the applicant and paid him arrears also. According to the applicant, the arrears have not been paid fully and there is an error in the calculation.


2. We have heard both the learned counsel for the parties.



3. We note that if there is any error in the calculation according to the applicant, he should prefer a fresh representation in addition to one already submitted by him to the respondents, if so advised, within a period of one month and respondents should consider and decide the same within a period of two months thereafter by duly taking into consideration the points to be raised by the applicant in the representation regarding any error in the calculation.

4. Thus, the respondents have made substantial compliance with the order of this Tribunal in question. The Contempt Petition, therefore, does not survive and the same stands disposed of. Notices are discharged.

  
( Sudhakar Mishra )  
Member (A)

  
( Jog Singh )  
Member (J).

H.

