

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE
DATED THIS THE 9TH DAY OF MARCH, 1987.

Present: Hon'ble Shri Justice K.S. Puttaswamy,
& Vice-Chairman
Hon'ble Shri L.H.A. Rego, Member (A)

APPLICATION NOS. 1396 & 1826 OF 1986

1. K.V. Suryanarayana Rao,
S/o K.N. Venkatramaniah,
Aged 42 years,
Income Tax Inspector,
No.154/11, II Block,
Rajajinagar, Bangalore-10.

Applicant in
A. No.1826/86.

(Shri N.S. Prasad, Advocate)

2. S. Suryanarayana,
S/o Late S. Shamanna,
Aged 48 years,
Income Tax Inspector,
18, 6th Main Maruthi Extension,
Srirampuram, Bangalore-21.

Applicant in
A. No.1396/86.

(Shri M. Narayanaswamy, Advocate)

v.

1. The Union of India,
by its Secretary,
Central Board of Direct Taxes,
North Block, Central Secretariat,
New Delhi.

2. The Commissioner for Income Tax
in Karnataka, Central Revenues
Building, Queens Road,
Bangalore.

Common Respondents.

(Shri M.S. Padmarajaiah, SCGSC)

These applications having come up for hearing
to-day Vice-Chairman made the following.

O R D E R

As the questions that arise for determination
in these transferred applications received from the

High Court of Karnataka under Section 29 of the Administrative Tribunals Act, 1985 ('The Act') are common, we propose to dispose of them by a common order.


2. S. Suryanarayana, applicant in Application No.1396 of 1986 corresponding to W.P. No.2404 of 1984 who was working as a stenographer (Selection Grade) (SSG) as on 2.7.1975, appeared for the departmental examination prescribed for the promotional post of Income Tax Officer (ITO) and was successful in that examination. K.V. Suryanarayana Rao, applicant in Application No.1826 of 1986 corresponding to W.P. No.33430 of 1982 who initially joined service as a Lower Division Clerk in the Income Tax Department, was working as SSG in 1973, in the then time-scale of pay of Rs.425-700. He also appeared for the departmental examination prescribed for the post of ITO, held in July, 1973, and was successful in that examination. When the applicants were working as SSGs they also appeared for the departmental examination prescribed for the posts of Inspectors in which also they were successful.

3. When the applicants passed the departmental examinations prescribed for the posts of ITOs, the Commissioner of Income Tax Karnataka Circle,




(Commissioner), examined their cases for advance increments in terms of various Rules and orders in force then and by his separate but identical orders made in the case of each applicant, allowed them two advance increments from the date to which they were entitled, under the Rules and orders in force, in pursuance of which, the applicants were drawing two advance increments for a fairly long time.

4. But, some time thereafter, the Commissioner on a re-examination of the position made an order bearing No.E.381/ITO/76/KTK dated 23.11.1976 (Annexure-A) in Application No. 1826 of 1986) rescinding his earlier orders, granting two advance increments to the applicants, on the ground that they were contrary to the orders of Government and directed recovery of the amounts already drawn by them, towards advance increments. Aggrieved by this order, the applicants made representations to Government, which on 5.6.1982 substantially rejected the same. Hence, the applicants filed writ petitions in the High Court under Article 226 of the Constitution, which on transfer to this Tribunal, have been registered as Applications Nos. 1396 and 1826 of 1986.



naturally become entitled to the benefit of the Government order dated 24.7.1955, granting two advance increments. The grant of advance increments to SSGs, was really dependent on their being made eligible to appear for the examination under the Rules. Those class of officials that are eligible to appear or those that are later made eligible to appear for the Departmental Examination under the Rules, as a matter of course or by reason of the eligibility so conferred only also become eligible for grant of two advance increments, in terms of the order dated 24.7.1955. Omission, if any, in the said Government Order does not in any way affect this legal position. If this is the true affect of the amendment to the Rules and the order of Government, it, then follows as a corollary that the Commissioner and Government should have ignored all the later orders made by Government commencing from 19.2.1977 and onwards in this behalf.

12. What emerges from our above conclusion is that the first order made by the Commissioner, allowing advance increments to the applicants, which was in terms of the amended Rules and the Government Order dated 24.7.1955 were absolutely correct, legal and valid and there were no grounds to re-examine the position and



come to any different conclusion at all. On this short ground, we must necessarily accept the claim of the applicants, quash the order of the Commissioner made on 23.11.1976 and direct the respondents to regulate the payment of advance increments in terms of the earlier orders made by him in their favour, without examining all other contentions urged before us by either of the parties.

13. In the light of our above discussion, we make the following orders and directions:

(i) We quash the Order dated 23.11.1976 (Annexure-A), produced in A.No.1826/86.

(ii) We declare that the first order made by the Commissioner, granting two advance increments to the applicants on their passing the Departmental Examination prescribed for the post of ITOs from the dates they became eligible was legal and valid. We direct the respondents to regulate the payment of the advance increments in question to the applicants and recoveries if any on this basis from time to time.

14. Applications are disposed of in the above terms. But, in the circumstances of the cases we direct the parties to bear their own costs.

[Signature]
Vice-Chairman 9/3/1987.

[Signature]
Member (A) 9.3.1987