

**CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR**

ORDER SHEET

ORDERS OF THE TRIBUNAL

29.10.2014

OA No. 291/00379/2014

Mr. Amit Mathur, Counsel for applicant.
Mr. Gaurav Jain, Counsel for respondents.

Heard learned counsel for the parties.

ORDER RESERVED.

Anil Kumar
(Anil Kumar)
Member (A)

Abdul

31-10-2014

order pronounced
today in the open court
by the aforesaid Bench.

[Signature]
31/10/14,
C.O.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH, JAIPUR.

ORDER RESERVED ON 28.10.2014

DATE OF ORDER : 31.10.2014

CORAM :

HON'BLE MR. ANIL KUMAR, ADMINISTRATIVE MEMBER

1. ORIGINAL APPLICATION NO. 291/00036/2014

Brij Mohan Pandey son of N.D. Pandey, aged about 46 years, resident of 102, Suraj Nagar, East, Civil Lines, Jaipur. Presently working as Inspector, Income Tax Department, Jaipur.

... Applicant

(By Advocate: Mr. Amit Mathur)

Versus

1. Union of India through its Secretary, Ministry of Finance, Department of Revenue, North Block, New Delhi.
2. The Chairman, Central Board of Direct Taxes, Ministry of Finance, Department of Revenue, New Delhi.
3. The Director General (Intelligence and Criminal Investigation), NCR Building, Statue Circle, Jaipur.

... Respondents

(By Advocate: Mr. Gaurav Jain)

2. ORIGINAL APPLICATION NO. 291/00062/2014

Vivek Choudhary son of Bhoopendra Singh, aged around 45 years, resident of 35-36, Vivek Nagar, Sindhi Camp, Jaipur. Presently working as Inspector, Department of Income Tax, Jaipur.

... Applicant

(By Advocate: Mr. Amit Mathur)

Versus

1. Union of India through its Secretary, Ministry of Finance, Department of Revenue, North Block, New Delhi.
2. The Chief Commissioner of Income Tax, Statue Circle, NCR Building, Jaipur.
3. The Director (Investigation), Department of Income Tax, NCR Building, Statue Circle, Jaipur.

... Respondents

(By Advocate: Mr. Gaurav Jain)

**3. ORIGINAL APPLICATION NO. 291/00064/2014
 WITH
 MISC. APPLICATION NO. 291/00047/2014**

Anil Jain son of Shri Bhanwar Lal Jain, aged around 38 years, resident of A-139, Shyam Nagar, Sodala, Jaipur. Presently working as Inspector, Department of Income Tax, Jaipur.

... Applicant

(By Advocate: Mr. Amit Mathur)

Versus

1. Union of India through its Secretary, Ministry of Finance, Department of Revenue, North Block, New Delhi.
2. The Director General (Investigation), Department of Income Tax, NCR Building, Statue Circle, Jaipur.

... Respondents

(By Advocate: Mr. Gaurav Jain)

**4. ORIGINAL APPLICATION NO. 291/00065/2014
 WITH
 MISC. APPLICATION NO. 291/00048/2014**

Subhash Chand Sharma son of Late Shri Het Ram Sharma, aged around 49 years, resident of 257- Officers Campus Extension, Sirsi Road, Khatipura, Jaipur. Presently working as Inspector, Department of Income Tax, Jaipur.

... Applicant

(By Advocate: Mr. Amit Mathur)

Versus

1. Union of India through its Secretary, Ministry of Finance, Department of Revenue, North Block, New Delhi.
2. The Chief Commissioner of Income Tax, Statue Circle, NCR Building, Jaipur.
3. The Commissioner of Income Tax (1), Department of Income Tax, NCR Building, Statue Circle, Jaipur.

... Respondents

(By Advocate: Mr. Gaurav Jain)

**5. ORIGINAL APPLICATION NO. 291/00377/2014
WITH
MISC. APPLICATION NO. 291/00318/2014**

Ravinder Kumar Son of Shri Kanhaiya Lal, aged around 32 years, resident of Plot No. 04, Lav Kush Nagar II, Tonk Phatak, Jaipur. Presently working as Senior TA, Department of Income Tax, Jaipur.

... Applicant

(By Advocate: Mr. Amit Mathur)

Versus

1. Union of India through its Secretary, Ministry of Finance, Department of Revenue, North Block, New Delhi.
2. The Chief Commissioner of Income Tax, Statue Circle, NCR Building, Jaipur.

... Respondents

(By Advocate: Mr. Gaurav Jain)

6. ORIGINAL APPLICATION NO. 291/00378/2014

Davender Murariya son of Shri Subodh Kumar, aged around 36 years, resident of Plot No. 108, Maruti Nagar, Sanganer, Jaipur. Presently working as Inspector, Department of Income Tax, Jaipur.

... Applicant

(By Advocate: Mr. Amit Mathur)

Versus

1. Union of India through its Secretary, Ministry of Finance, Department of Revenue, North Block, New Delhi.
2. The Chief Commissioner of Income Tax, Statue Circle, NCR Building, Jaipur.
3. Commissioner of Income Tax (Central), Statue Circle, NCR Building, Jaipur.

... Respondents

(By Advocate: Mr. Gaurav Jain)

7. ORIGINAL APPLICATION NO. 291/00379/2014

Brijendra Singh son of Late Shri Chitra Deo Singh, aged around 43 years, resident of Jaipur. Presently working as Office Superintendent, Department of Income Tax, Jaipur.

... Applicant

(By Advocate: Mr. Amit Mathur)

Versus

1. Union of India through its Secretary, Ministry of Finance, Department of Revenue, North Block, New Delhi.
2. The Chief Commissioner of Income Tax, Statue Circle, NCR Building, Jaipur.
3. Commissioner of Income Tax (Audit), Lal Kothi, Jaipur.

... Respondents

(By Advocate: Mr. Gaurav Jain)

ORDER

PER HON'BLE MR. ANIL KUMAR, ADMINISTRATIVE MEMBER

With the consent of the parties the case was heard today. Since the facts and law points in all these OAs are similar, therefore, they are being disposed of by a common order. The facts of OA No. 291/00036/2014 (Brij Mohan Pandey vs. Union of India & Others) are being taken as a lead case.

2. The learned counsel for the applicant at the outset submitted that in all these OAs, the applicants have prayed that the respondents be directed to allow the benefit of two advance increments to them from the date they have qualified the departmental examination for the post of Inspector of Income Tax and their pay may be fixed accordingly after giving the benefit of two advance increments. He also submitted that the respondents may further be directed to give them arrear alongwith interest. He also argued that in OA No. 291/00036/2014, the respondents have also recovered the amount from the applicant vide order dated 22.03.2013/04.04.2013 (Annexure A/1) which should be

A. N. Sharma

OA 291/00036/2014, OA 291/00062/2014, OA 291/00064/2014 with MA 291/00047/2014,
OA 291/00065/2014 with MA 291/00048/2014, OA 392/00377/2014 with MA 291/00318/2014,
OA No. 291/00378/2014 and OA No. 291/00379/2014

refunded to him. He submitted that this controversy has already been settled by this Tribunal in OA No. 513/2009 decided on 05.09.2011 (Pooran Lal Verma vs. Union of India & Others) and in the case of Mohan Lal Meena vs. Union of India & Others (OA No. 834/2012 decided on 26.07.2013) and by the Jodhpur Bench of the Central Administrative Tribunal in OA Nos. 127/2001 (Mrs. Aliamma Mathew & Others vs. Union of India & Others) and OA No. 128/2001 (N.K. Gehlot vs. Union of India & Others) vide common order dated 21.08.2002. He further submitted that the order of the Central Administrative Tribunal, Jodhpur Bench, was challenged by the respondents by way of Writ Petition No. 800/2004 (Union of India & Others vs. Alimma Mathew) before the Hon'ble High Court of Rajasthan, Jodhpur Bench. The Hon'ble High Court vide order 11.12.2006 dismissed the Writ Petition filed by the respondents against the order of the Central Administrative Tribunal, Jodhpur Bench.

3. The learned counsel for the applicant further submitted that the question of limitation has also been considered by this Tribunal in the case of Pooran Lal Verma vs. Union of India & Others (Supra). That the Tribunal after considering the cases of the Hon'ble Supreme Court in case of **M.R. Gupta vs. Union of India & Others** [Civil Appeal No. 7510/1995 decided on 21.08.1995] and **Union of India & others vs. Shantiranjan Sarkar** decided on 13.01.2009 [Civil Appeal No. 103/2009 (arising out of SLP (C) No. 23770/2005)] condoned the delay and the claim of the applicant was decided on merit.

OA 291/00036/2014, OA 291/00062/2014, OA 291/00064/2014 with MA 291/00047/2014,
OA 291/00065/2014 with MA 291/00048/2014, OA 392/00377/2014 with MA 291/00318/2014,
OA No. 291/00378/2014 and OA No. 291/00379/2014

vs. State of Uttarakhand and Others (supra) has laid down the law with regard to the recovery of overpayment made to the employees, I am of the view that the ratio decided by the Hon'ble Supreme Court in that case, is not applicable in the facts and circumstances of the present case. In the present Original Application, no recovery of excess payment is to be made from the applicant. On the contrary, the applicant is entitled for two advance increments on qualifying the departmental examination for promotion to the post of Inspector."

Therefore, I am of the view that the ratio decided by the Hon'ble Supreme Court in the case of Chandi Prasad Uniyal & Others vs. State of Uttarakhan & Others (supra) is not applicable in the facts & circumstances of the present case. In the present case, no recovery of excess payment is to be made from the applicant but on the contrary the applicants are entitled for two advance increments on qualifying the departmental examination for the post of Inspector.

11. The respondents are directed to complete the exercise, as directed in Para No. 9 of this order, within a period of three months from the date of receipt of a copy of this order.

12. The Registry is directed to place the copy of this order in the respective files of the OAs.

(ANIL KUMAR)
MEMBER (A)

Abdul

Copy sent. Vcd. No 941 & 942
31/12/14