

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

ORDERS OF THE BENCH

Date of Order: 16.12.2014

OA No. 291/00564/2014

Mr. B.S.Shekhawat, Counsel for the applicant.

Mr. Gaurav Jain, Counsel for the Respondents.

Heard the learned counsel for parties.

Order Reserved.

Anil Kumar
(ANIL KUMAR)
ADMINISTRATIVE MEMBER

Adm/

19/12/14
order
pronounced
today in
the open
court by
the addressed
Bench.

[Signature]
19/12/14
C.O.

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

ORIGINAL APPLICATION NO. 291/00564/2014

ORDER RESERVED ON: 16/12/2014

DATE OF ORDER: 19.../12/2014

Coram:

Hon'ble Shri Anil Kumar, Administrative Member

1. Kapil Baghal S/o Shri Ashok Baghal Age 31, R/o 28/III Income Tax Colony SWB Alwar, Rajasthan. Posted at AYKER BHAWAN RANG-2, 22 Moti Doongri Road, Alwar, Rajasthan.
2. Ahsish S/o Shri Om Prakash Age 34 R/o 29/III, Income Tax Colony SWB Alwar, Rajasthan. Posted at AYKER BHAWAN APPEALS, 22 Moti Doongri Road, Alwar, Rajasthan.
3. Tanuja Kumar D/o Shri Kuber Nath Age 33, R/o 3/III Income Tax Colony SWB Alwar, Rajasthan. Posted at AYKER BHAWAN RANG-1, 2 Moti Doongri Road, Alwar, Rajasthan.
4. Suraj Kumar S/o SHri Dhanpat mandal Age 33 year R/o Income Tax Colony 23 S.W.B. Alwar, Rajasthan. Posted at AYKER BHAWAN RANG-1, 2 Moti Doongri Road, Alwar, Rajasthan.

....Applicant

Mr. B.S. Shekhawat, counsel for the applicant.

VERSUS

1. The Union of India, through its Secretary Ministry of Finance Department, North Block, New Delhi.
2. Chairman, Central Board of Direct Taxes, Government of India, Ministry of Finance, North Block, New Delhi.
3. Commisioner of Income Tax Alwar Rajasthan Alwar, Ayaker BHawan, Moti Dungari, Alwar, Rajasthan.
4. Principal Chief Commissioner of Income Tax Rajasthan Jaipur, Income Tax Building Janpath, Jaipur Rajasthan.

....Respondents

Mr. Gaurav Jain, Counsel for the respondents.

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ORDER

The applicants have filed the present O.A. praying for following relief:

"It is, therefore, prayed that this Hon'ble Tribunal may be pleased to allow this Original Application and further be pleased to directed the respondents to give increments and arrear with effective dated 28/12/2012, 18/12/2013."

2. The brief facts of the case as stated by the learned counsel for the applicants are that the applicants were initially appointed through direct recruitment on the post of Tax Assistant in the year 2007. The applicants passed the departmental examination for the post of Income Tax inspector (normal) in the year 2012 and 2013. After passing the examination, the applicants requested the respondents to sanction two advance increments because other similarly situated employees were sanctioned said increments, but the respondents vide their letter dated 22/08/2014 (Annexure-A/1) rejected the request of the applicants.

3. The respondents have submitted their reply. In their reply, they have stated that as per Central Board of Direct Taxes letter No. F.No.A36017/44/94-Ad.IV dated 20/10/1994 the question of grant of advance increment to Head Clerks or Stenographer Grade-II for passing the Inspector Departmental Examination does not arise at this stage. Moreover, passing the examination itself is an incentive to employee to become eligible for appointment to higher post. The circular further provides that no fresh categories of staff can be added to this scheme (Annexure-R/1). The respondents have also stated that the

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applicants are not entitled for two advance increments in view of the clarification issued by circular No. F. No. I-11020/47/2007-Ad.IX dated 09/09/2009 (Annexure-R/2).

4. The respondents have also relied on judgment of Hon'ble Supreme Court of India in the case of **Chandi Prasad Uniyal and others Vs. State of Uttarakhand and others** reported in 2012 (7) SC 460 which is in regard to recovery of excess payment paid to any government employee.

5. Heard the learned counsels for the parties, perused the documents on record and the case law referred to by the learned counsels for the parties.

6. The learned counsel for the applicants submitted that the similar controversy has been decided by this Bench of the Tribunal in O.A. No. 835/2012 in case of Denesh Kumar Meena Vs. Union of India & Ors. vide order dated 19/07/2013 and in O.A. No. 291/00297/2014 in case of Virendra Kumar Godiwal Vs. Union of India & Ors and other connected matters vide order dated 21/11/2014.

7. The learned counsel for the applicants submitted that present Original Application be decided in terms of the orders passed by this Bench of the Tribunal in the said Original Applications.

8. The learned counsel for the respondents admitted that similar controversy has been decided by this Tribunal in the

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Original Applications as referred to by the learned counsel for the applicants.

9. I have carefully perused the orders passed by this Tribunal in O.A. No. 835/2012 Denesh Kumar Meena Vs. Union of India & Ors order dated 19/07/2013 and O.A. No. 291/00297/2014 Virendra Kumar Godiwal Vs. Union of India & Ors and other connected matters order dated 21/11/2014. I am of the view that the controversy involved in the present original application is similar to the controversy involved in the said original applications and therefore, the present original application can be decided in terms of order passed by the Bench of this Tribunal in O.A. No. 291/00297/2014 order dated 21/11/2014 (Supra).

10. The ratio decided by the Hon'ble Supreme Court in the case of Chandi Prasad Uniyal and Others Vs. State of Uttarakhand and Others (supra) as referred to by the learned counsel for the respondents is not applicable under the facts and circumstances of the present original application. There is no recovery involved in the present Original Application. On the other hand, the applicants are entitled for two advance increments: therefore, no question of recovery is involved from the applicants.

11. On the merits of the case, there is no dispute between the parties that similar situated employees have been given benefit of two advance increment from the date of having passed

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departmental examination for the post of Income Tax Inspector and that present applicants are also similarly situated employees. Therefore, in my opinion the respondents are bound by law of equity and they can not discriminate between two similarly situated employees. Thus, in view of the settled position of law, the applicants in the present Original Application are entitled to two advance increments from the date of passing of departmental examination for the post of Income Tax Inspector. They are also entitled to arrears, if any. The respondents are directed to complete this exercise within a period of three months from the receipt of copy of this order.

12. With these observations and directions, the present Original Application is disposed of with no order as to costs.

Anil Kumar
(Anil Kumar)
Administrative Member

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