

CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH

OA No.531/2002.

Jaipur, this the 31st day of March 2006.

CORAM : Hon'ble Mr. M. L. Chauhan, Judicial Member.

N. R. Pillai
S/o Late shri K. Narayan Pillai,
Aged about 53 years,
R/o 1 TA 15, Dadabadi,
Kota.

... Applicant.

By Advocate : Shri Dharmendra Jain proxy counsel for
Shri Manish Bhandari

Vs.

1. Union of India
Through its Secretary,
Ministry of Finance (Department of Revenue),
150, North Block,
New Delhi.
2. Chairman,
Central Board of Direct Taxes,
150, North Block,
New Delhi.
3. Chief Commissioner of Income Tax,
Rajasthan, Jaipur, Statue Circle,
Jaipur.
4. Income Tax Officer, Baran.

... Respondents.

By Advocate : Shri Gaurav Jain.

: O R D E R (ORAL) :

The applicant who is presently posted as Income Tax Inspector in the respondents department has filed this OA thereby praying for the following reliefs :-

"1. It is, therefore, prayed that this Original Application may kindly be allowed and in the facts and circumstances of the case, the order effecting the recovery as well as withdrawal of the advance

increment of the applicant i.e. Annexure A/1 be declared as illegal and the respondents be commanded with the direction that the applicant is entitled to benefit of advance increment as is being decided by the Tribunal in its judgement, a copy of which is already annexed along with this OA.

2. That the applicant be given all consequential benefits arising out of quashing of the impugned order at Annexure A/1.

3. cost of this application may also kindly be awarded in favour of the applicant."

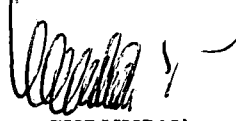
2. Briefly stated, the facts of the case are that the applicant while working on the post of Stenographer passed departmental examination for Income Tax Inspector in the month of July 1996, result of which was declared in the year 1997. Pursuant to the passing of the departmental examination of Income Tax Inspector, the applicant was given benefit of advance increments vide order dated 7.2.1997. However, the benefit of advance increments was withdrawn by the respondents vide their order dated 27.04.2000. The applicant has further stated that the respondents department decided that those candidates who are submitting cases before the CAT and obtained judgment in their favour, recovery from those candidates may not be persuaded. It is stated that now the CAT has delivered a detailed judgement on 21.8.2002 wherein the same issue has been dealt with in favour of the employees but the respondents are effecting recovery against the applicant. It is further stated that thereafter the applicant submitted a representation on 19.04.2002 but the respondents have not stopped recovery from the salary of the applicant. It is on these basis

the applicant has filed this OA thereby praying for the aforesaid reliefs.

3. Notice of this application was given to the respondents. Respondents have justified the passing of the impugned order dated 27.04.2000 on the terms that Stenographers Grade-II were not entitled to get the benefits of two advance increments in terms of order issued by the Ministry of Finance dated 9.08.1983. When the matter was listed for admission on 4.12.2002, ex-parte stay order was granted thereby staying the operation of the order dated 27.4.2000 (Annexure A/1). The said stay order is still continuing. When the matter was taken up for hearing on 22.2.2005, Learned Counsel for the respondents has brought to the notice of this Tribunal the order passed by the Hon'ble High Court of Rajasthan at Jodhpur in DB Civil Writ Petition No.800/2004 whereby the judgment dated 21.8.2002 passed in OA No.127/2001, on which the reliance has been placed by the applicant for claiming the relief, was stayed by the Hon'ble High Court and this petition was connected with Writ Petition No.6661/2003. Since the similar issue is pending before the Hon'ble High Court of Rajasthan, Jodhpur Bench and in DB Writ Petition No.800/2004 the Hon'ble High Court has restrained the department from recovering the said amount from the employee concerned, I am of the view that it will not be useful to keep this OA pending till the decision to be rendered by the Hon'ble

High Court of Rajasthan, Jodhpur Bench, in the aforesaid writ petitions. Accordingly, I am of the view that the present OA can be disposed of with the observation that the decision to be rendered by the Hon'ble High Court of Rajasthan, Jodhpur Bench, in the aforesaid writ petitions shall also be made applicable to the applicant of this case also. However, the respondents are directed not to recover the said amount from the applicant till the disposal of writ petitions by the Hon'ble High Court and will proceed with the matter only in accordance with the judgment to be rendered by the Hon'ble High Court in the aforesaid writs. It is, however, made clear that if the department does not ultimately succeed before the Hon'ble High Court, the applicant shall be extended all the benefits in terms of the High Court order within three months from the date of receipt of judgment, in case no time is prescribed by the Hon'ble High Court for implementing its decision.

4. With these observations, the OA is disposed of.


(M. L. CHAUHAN)
JUDICIAL MEMBER

P.C./