

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,
JABALPUR

Original Applications No 290 of 2004

Indore, this the 17th day of November, 2005.

Hon'ble Mr. M.P. Singh, Vice Chairman
Hon'ble Mr. Madan Mohan, Judicial Member

Mahavir Prasad Jain S/o late Shri Ratanlal Jain
Aged 65 years, Stenographer, Grade III (Retd)
Income Tax Department, R/o 389, Kalani Nagar,
Indore 452 005.

Applicant

(By Advocate – Shri S.K Bhattacharya on behalf of
Shri D.M.Kulkarni)

V E R S U S

1. Chief Commissioner of Income Tax (CCA)
Aayakar Bhawan, Hoshangabad Road,
Bhopal 462001.

2. Chief Commissioner of Income Tax,
Aayakar Bhawan, White Church Road,
Indore 452001 (MP)

3. Commissioner of Income Tax,
Aayakar Bhawan, White Church Road,
Indore 452001 (MP)

Respondents

(By Advocate – Shri S.Akhtar on behalf of Shri B.da.Silva)

O R D E R

By Madan Mohan, Judicial Member –

By filing this Original Application, the applicant has sought the following main reliefs :-

“8.1 Payment of arrears of Pay & Allowances for the duty period i.e. 4-10.1991 to 31.8.1992 as per Commissioner of Income Tax-1, Order dt. 8.9.2003 and Due & Drawn Statement Bill No.227/8-9-2003, be made.

8.2 Order of Up-gradation be issued consequent upon re-fixation of seniority by the Chief Commissioner of Income Tax (CCA), Bhopal vide order No.25 of 2003 of 29.8.2003.



8.3. Re-fixation of Pay & Allowances be made in the up-grades pay scale and accordingly payment of arrears made again for the duty period i.e. 4.10.1991 to 31.8.1992.

8.4. Payment of Gratuity and Commutation on the basis of enhance pay scale and grade.

8.5. Issue of Revised Pension Payment order and payment of arrears from the date Voluntary retirement i.e. 1.9.1992 till date.

8.6. Payment of interest on the entire amount which was due to be paid 10/12 years earlier but being paid now."

2. The brief facts of the case as stated by the applicant are that the applicant was working as Stenographer Gr.III under the respondents-department. He filed an appeal for consideration of Pay, Allowances, seniority & promotion dated 16.4.1992 before the Commissioner of Income Tax, Bhopal, through proper channel. The said appeal could not be decided within a reasonable time and the applicant had to accept lower grading and lesser salary. The applicant opted for voluntary retirement which was accepted and he was relieved from the duties on 31.8.1992. Thereafter the applicant filed many representations before the respondents but the respondents have not take any action on the representations of the applicant. Hence, the applicant had filed an OA No.336/2001 which was disposed of on 25.1.2002 directing the applicant to file a fresh representation to the Chief Commissioner of Income Tax, Bhopal with a copy to respondent No.3 and further directed the respondents to consider and decide the representation of the applicant within 3 months by passing a detailed, speaking and reasoned order. Thereafter the Chief Commissioner, Income Tax (CCA) Bhopal passed an order dated 29.8.2003 whereby they decided the appeal in favour of the applicant. According to the applicant the Chief Commissioner of Income Tax (CCA) Bhopal directed all concerned officers to implement his orders immediately and the Commissioner of Income Tax, Range-I, has taken some initiatives in the matter by issuing pay fixation order, Due and Drawn statement dated 8.9.2003 (Annexure-A-7). However,



he did not fully comply the aforesaid order. Till now no satisfactory action was taken by the respondents. Therefore, the applicant reminded the Chief Commissioner of Income Tax (CCA) Bhopal vide representation dated 21.10.2003, 23.12.2003 and 23.1.2004. However, the respondents have not decided the aforesaid representations. Hence, this OA.

3. Heard the learned counsel for the parties and carefully perused the records.

4. It is argued on behalf of the applicant that the applicant has earlier filed the OA No. 336/2001 and in compliance with the direction given Tribunal on 25.1.2002 the applicant has sent a fresh representation to the Chief Commissioner, Income Tax, Bhopal on 13.2.2002. Vide order dated 29.8.2003 the representation of the applicant has been decided in favour of the applicant and it was directed to the concerned authorities to implement the aforesaid order immediately. Thereafter the Commissioner, Income Tax, Range-I has taken some initiatives in the matter by issuing pay Fixation order, Due and Drawn Statement dated 8.9.2003. However the aforesaid order of the Chief Commissioner has not fully complied by the concerned authority.

5. In reply, the learned counsel for the respondents argued that the Commissioner Income Tax-I Indore vide his order dated 1.9.2003 has fixed the pay of the applicant granting him regular increments, in accordance with the order dated 28.8.2003. The same was forwarded to the Zonal Accounts Officer, CBDT, Bhopal for approval and thereafter the matter has been referred to CBDT, New Delhi requesting to forward the certificate desired by the Zonal Accounts Officer. CBDT, Bhopal. On receipt of the same, the Zonal Accounts office will be directed to do the needful. Thereafter a DPC was constituted to look into the matter of granting the promotion to the applicant in the cadre of Stenographer Gr.II. The DPC could not



assess the performance of the applicant, as there were no Annual Confidential Reports available in view of the long absence of the applicant. Hence, this OA is deserves to be dismissed.

6. After hearing the learned counsel for the parties and on careful perusal of the records, we find that the applicant has submitted several representations and reminder for complying with the order passed by the Chief Commissioner Income Tax on 29.8.2003. Thereafter the Commissioner, Income Tax, Range-I Indore has taken some initiatives in the matter of the applicant by issuing pay Fixation Order, Due and Drawn Statement dated 8.9.2003. However the aforesaid order of the Chief Commissioner has not fully been complied with by the concerned authority. We have perused the aforesaid order passed by Chief Commissioner of Income Tax(CCA), Bhopal on 29.8.2003 in which it is mentioned that "In the gradation list as on 1.6.1990 in the name of Shri M.P. Jain is hereby placed at Sl.No. 1084A below Shri N.Sreenivasan (Sl.No.1084) and above Shri M.K.Guru (Sl.No.1085) Stgr (OG). Since in this case, leave has been granted for the entire period from 9.1.1973 to 3.10.1991, the increments will be earned annually during this leave period and pay from the date of resumption of duty will be drawn on the basis of such enhanced basic pay. Orders for holding review DPC within four weeks of this order for consideration of promotion of Shri M.P. Jain consequent to the refixation of his seniority are being issued separately". We also find in para 17 of the reply wherein it has been mentioned that "due to drawn statement" was prepared by the Commissioner of Income Tax-I, Indore and was forwarded to the Zonal Accounts Officer, Bhopal vide covering letter dated 9.8.2004. He also sought instructions that whether the approval of DOPT in accordance with OM No. 28027/9/99 Estt.(A) dated 1.5.2000 was obtained or not ? The matter has been referred to CBDT, New Delhi and the necessary information/instructions are awaited." We have perused the rejoinder filed by the applicant wherein the applicant did not comment any thing about para 17 of the respondents. It seems that the

information/instructions are still awaited from the office of CBDT, New Delhi.

7. After considering all the facts and circumstances of the case we are of the considered view that the ends of justice would be met if we direct the respondent No. 3 to seek instructions/information from CBDT New Delhi in this matter which is said to be referred to CBDT New Delhi within a period of 4 months from the date of receipt of a copy of this order and take further action in this matter as per rules and also communicate the same to the applicant. We do so accordingly

8. With the above direction, the OA stands disposed of. No costs.


(Madan Mohan)
Judicial Member


(M.P.Singh)
Vice Chairman

skm

मुकामन सं. लो/व्या.....जलनुर, दि.....
प्रमिलियन एवं व्यापार विभाग, जलनुर
(1) राजित, व्या. विभाग, जलनुर
(2) अधिकारी, व्या. विभाग, जलनुर
(3) एवं व्या. विभाग, जलनुर
(4) व्यापार विभाग, जलनुर
सूचना एवं आवश्यक कागजाती देख
मेरी जिम्मेदारी

D.M. Kulkarni BN 1142
B.O.S. 10, BN 101


22/11/05