

Central Administrative Tribunal
Jabalpur Bench

OA No.330/04

On this the 22nd day of November, 2005.

C O R A M

Hon'ble Mr. M.P.Singh, Vice Chairman

Hon'ble Mr. Madan Mohan, Judicial Member

Arumughan Shivedas

S/o Late Shri V. Arumughan

Ex. Income Tax Officer

(Tax Recovery Officer)

R/o F-84/A, Patel Nagar

City Centre, Gwalior.

Applicant.

(By advocate Shri P.N.Dixit)

Versus

1. Union of India through its
Secretary
Department of Revenue
Ministry of Finance
North Block
New Delhi.
2. Chief Commissioner of Income Tax
Aayakar Bhawan
Hoshangabad Road
Bhopal.
3. Commissioner of Income Tax
Aayakar Bhawan, City Centre
Gwalior.
4. Tax Recovery Officer-I
Aayakar Bhawan, City Centre
Gwalior (then Assistant Commissioner
Of Income Tax (Admn))
Gwalior.
5. Income Tax Officer-I
(Drawing & Disbursing Officer)
Aayakar Bhawan, City Centre
Gwalior
6. Zonal Accounts officer

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82, Maharana Pratap Nagar Zone
II, Bhopal. Respondents.
(By advocate Shri Gaurav Samadiya on behalf of
Shri V.K. Sharma)

OR D E R

By Madan Mohan, Judicial Member

By filing this OA, the applicant has claimed the following reliefs:

- (i) Direct the respondents to pay the applicant medical allowance of Rs.100/- per month after retirement.
- (ii) Direct the respondents to pay the applicant the amount of DCRG amounting to Rs.2,63,423 (after duly revising the amount upward as per A-1) on retirement of the applicant on 31.1.2003.
- (iii) Declare that the alleged wrong grant of two advance increments taking the applicant's pay beyond the maximum of the Head Clerk's scale as valid and legal.
- (iv) Rectify the PPO by adopting the last pay drawn at Rs.10,500 as per A-1.
- (v) Direct the respondents to pay interest on delayed payments of GPF amounting to Rs.7,01,212/- from 1.2.2003 till 20.3.2003 and also to pay DCRG Rs.2,63,423 with interest.
- (vi) Direct the respondents to pay the applicant the amount of special pay and applicable allowances for the period 2.9.78 to 1.5.1998 on fixation of pay in the post of Tax Assistant.

2. The brief facts of the case are that the applicant who was initially appointed on 18.10.1962 as LDC (Steno-Typist) with special pay of Rs.20 per month in the pay scale of Rs.10-180 was promoted as UDC on 29.7.1967 in the pay scale of Rs.130-300. He passed Hindi Pragya Examination on 29.7.1969. Adding two increments of Rs.8/- each, his pay was raised to Rs.176/-. The two advance increments of Rs.8/- were to be absorbed in future two annual increments. The DA and HRA were not payable on those advance increments according to the respondents. The applicant continued to receive DA & HRA on these two increments. The recovery of the above DA & HRA has now been made one of the pretexts to withhold the amount of gratuity by respondent No.6. The applicant was promoted as Tax Assistant on 2.9.1978 in the scale of Rs.380-640 without special pay of Rs.35. The



amount of special pay and applicable allowances for the period from 2.9.78 to 2.5.98 have not been paid to applicant. The applicant has not been paid arrears on fixation of pay for the period 2.9.78 to 15.4.98 inspite of several representations. On 1.1.86, the pay scales of the applicant were revised as per recommendation of IVth Pay Commission in the scale of Rs.1400-2300, and his pay was fixed at Rs.2200/- w.e.f 1.1.86 on the post of Head Clerk. On 6.5.94 he was promoted to the post of Income Tax Officer in the scale of Rs.6500-10500 and his pay was fixed at Rs.9100. Applicant superannuated from the post of Tax Recovery officer on 31.1.2003 and the last pay drawn by him was Rs.10,500/- with allowances. However, the PPO issued by respondent no.6 on 23.5.2003 remains unchanged. The inaction on the part of respondent No.6 has resulted in lesser payment of all retiral benefits. Hence this OA is filed.

3. Respondents in their reply contend that non-receipt of medical allowance of Rs.100 was not brought to the knowledge of respondent No.5. However, on being aware of this fact, respondent No.5 wrote to Pay & Accounts Officer, Central Pension & Accounts office, New Delhi requesting them to direct the SBI to pay medical allowance w.e.f 5.4.2005. A demand draft amounting to Rs.1,84,960/- on account of DCRG after making recoveries was handed over to the applicant on 5.4.2005. The personal pay @Rs.8/- w.e.f 29.7.69 and Rs.8/- w.e.f 29.7.70 was due to the applicant on passing the Hindi Praveen and Pragya examinations but it was incorrectly merged with his basic pay. The applicant was drawing excess pay @ Rs.8 and 16 per month w.e.f 29.7.70 and 29.7.71 respectively. Thus the recovery ordered is in accordance with the relevant rules. The applicant was actually drawing basic pay of Rs.680 w.e.f 1.9.83. He was granted two advance increments @ Rs.20/- each on passing the departmental examination for ITO w.e.f 15.6.84 raising his pay to Rs.720. He was granted annual increment of Rs.20/- w.e.f 1.9.84 raising his pay to Rs.740/. The pay fixation rules do not allow drawal of pay beyond the pay scale of Rs.425-700. As per rules, his pay could not have

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exceeded the pay scale of Rs.700/- Hence the recovery was as per rules. The option given in 2003 for fixation of pay w.e.f 15.6.86 under CCS (Revised Pay) Rules was not as per rules. It could be exercised upto 31.8.1988. As on 1.1.96, in accordance with the recommendation of Vth Pay commission, the pay of the applicant was rightly fixed at Rs.8900/- by respondent No.6. The applicant is not entitled for any reliefs.

4. Heard learned counsel for both parties and carefully perused the records. We find that the respondents have admitted the fact about the payment of medical allowance to the applicant in their reply as they have mentioned that they have written to PAO, Central Pension & Accounts Office, New Delhi requesting them to direct the SBI to pay medical allowance i.e. 1.2.2003. Learned counsel for the respondents argued that the facts of both parties are based on calculation and if the applicant files a fresh representation within a stipulated time he will be permitted to produce the relevant and concerned documents and after verifying the facts and figures, the respondents will consider the case of the applicant according to rules.

5. The argument advanced on behalf of the respondents seems to be correct. The matter of calculation can be done by the parties themselves.

6. Considering all facts and circumstances of the case, the applicant is directed to file a fresh representation mentioning full details within a period one month from the date of receipt of a copy of this order and if he complies with this, the respondents are directed to

(D) ✓

consider and decide the representation of the applicant within a period of four months from the date of receipt of such representation. Respondents are also directed to inspect the concerned and relevant documents to be produced by the applicant at a mutually agreed place and date.

7. The OA is disposed of as above. No costs.


(Madan Mohan)
Judicial Member


(M.P. Singh)
Vice Chairman

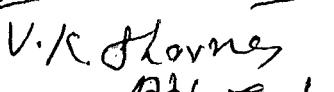
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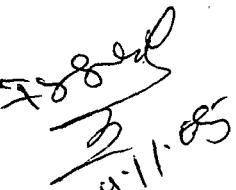
पृष्ठांकन सं. ओ/व्या..... जबलपुर, दि.....
प्रतिलिपि दर्जी क्रमांक.....

- (1) राधिका, उच्च व्यापार विभाग, जबलपुर
- (2) आदेश विभाग, जबलपुर
- (3) प्रदेशी ओ/व्या/प्री/कु..... के काउन्सल
- (4) वायपल, येतावा, जबलपुर नामांकित

सूचना एवं आवश्यक कार्यकारी देश

29/11/2000
उप रजिस्ट्रार


V.K. Sharma
D.V. 201


29/11/85