

CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH

OA No.376/04

Jabalpur, this the 16th day of December, 2004

CORAM

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

P.P.Varghese
Inspector of Income Tax (Retd.)
S/o Late Shri Itty Philipose
Dist. Hospital Compound
Betul (M.P.)

Applicant

(By advocate Shri A.P.Shrivastava)

Versus

1. Union of India through
Chairman, Central Board of
Direct Taxes, North Block,
New Delhi.
2. Chief Commissioner of Income Tax
Aayakar Bhawan, Hoshangabad Road
Bhopal.
3. Commissioner of Income Tax
Aayakar Bhawan, Hoshangabad Road
Bhopal.
4. Income Tax Officer-I
Betul (M.P.)
5. Zonal Accounts Officer
Central Board of Direct Taxes
Income Tax Department
184, M.P.Nagar
Bhopal.

Respondents.

(By advocate Shri Torrence Burrows on behalf
of Shri B.Dasilva)

O R D E R

By Madan Mohan, Judicial Member

By filing this OA, the applicant has sought the following
main reliefs:

- (i) To quash the proposed refixation of pay on the basis
of objection of Zonal Officer, Bhopal (Annexure A4)
being against the instructions of the Government.
- (ii) The proposed recovery of arrears on refixation of
pay on grant of two advance increments and on fixation
of pay on promotion as Inspector on the basis of
objection of Zonal Accounts Officer, Bhopal (Annexure
A5) be quashed.



2. The brief facts of the case are that the applicant who was working as Inspector of Income Tax, retired on 31.10.03. The applicant joined the Income Tax Department on 7.1.65 as stenographer and was promoted as Inspector of Income Tax. He passed departmental examination for Income Tax Inspector in July 1978. The post of Income Tax Inspector carries duty of higher responsibility and pay scale of Rs.425-800. The applicant was granted two advance increments by order dated 14.12.83. Subsequent on recommendation of Vth Pay Commission report, the applicant was placed in the revised pay scale of Rs.5500-9000. On 17.10.03 i.e. 13 days before the date of retirement, respondent No.4 received a communication from respondent No.5 (Annexure A1) that as per Govt. of India, Central Board of Direct Taxxxs, New Delhi letter dated 12.9.96 (Annexure A4), the stenographers were not eligible for two advance increments on passing departmental examination for Income Tax Inspectors. Respondent No.5 further requested respondent No.4 to refix the pay of the applicant on promotion under FR 22(a)(ii) and not under FR 22 (c). In view of this letter, the applicant would receive lesser amount of pension and retirement benefits and the amount would be deducted from DCRG payable. A clarificatory circular was issued by Ministry dated 5.1.89 whereby it was made clear that the claim of granting two advance increments would continue to have effect. Re-opening of issue which is 24 years old and that too at the time of retirement would cause great difficulty. Hence this OA is filed.

3. Heard the learned counsel for both parties. It is argued on behalf of the applicant that similar matter was decided in OA 321/01 on 1st Aug.2003 - D.L.Uprit Vs.UOI & Ors., which is squarely covered in the case of the applicant. Learned counsel for the respondents has opposed to it.



4. We have perused the order passed in the said OA.

Para 10 of the order in OA 321/01 is reproduced as under:

"In the premises, the Original Application is is allowed in part. The respondents are directed not to make any recovery on account of over payment made to the applicant due to wrong fixation of pay by grant of two increments. They are further directed to release the due amount of the gratuity and other retiral benefits within a period of one month from the date of receipt of a copy of this order. If the due amounts are not so released within the specified time, the respondents shall be liable to pay interest at the rate of 8% per annum after expiry of the said date. No costs."

5. The facts of the present OA are squarely covered by the aforesaid decision. Hence this OA is allowed.

Respondents are directed ^{not to} make any recovery of over payment made to the applicant due to wrong fixation of pay by grant of two increments.

(Madan Mohan)
Judicial Member

(M.P. Singh)
Vice Chairman

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पृष्ठांकन सं ओ/न्या.....जबलपुर, दि.....
पतिलिपि अर्पित:-

- (1) सचिव, उच्च न्यायालय का एग्जीक्यूटिव, जबलपुर
- (2) आवेदक श्री/श्रीमती/शु.....के कार्यालय
- (3) प्रत्यक्षी श्री/श्रीमती/शु.....के कार्यालय
- (4) न्यायालय, के.प्र.ओ., जबलपुर न्यायाधीश सूचना एवं आवश्यक कार्यवाही हेतु

उपे रजिस्ट्रार

Issued
On 17.12.04
B

P.P. Shrivastava vs B.D. 237

B.D. 1 vs B.D. 237