

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 440 of 2001

Jabalpur, this the 11th day of August, 2004

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

Bhagwandas Gupta,
Son of Late Shir Gokul Gupta,
Aged about 52 years, R/o 75,
Dubey Ka Bagicha, Vallabh Nagar
Indore M.P. At present working
as Inspector of Income Tax in the
office of Deputy Commissioner of
Income Tax, Circle-I(1) Indore,

APPLICANT

(By Advocate - Shri Swapnil Ganguli on behalf of
Shri Manoj Shram)

VERSUS

1. Union of India,
Through Secretary,
Ministry of Finance
(Department of Revenue)
North Block, New Delhi.
 2. The Secretary Ministry of
Personnel, Public Grievance
And Pensions (Deptt. of
Personnel & Training)
New Delhi.
 3. The Central Board of Direct
Taxes, Ministry of Finance
(Deptt of Revenue),
North Block, New Delhi.
Through its Chairman.
 4. The Chief Commissioner
of Income Tax, Aayakar
Bhawan, Hoshangabad Road,
Bhopal.
 5. The Chief Commissioner of Income
Tax Indore, Aayakar Bhawan, Near
White Church Indore.
 6. The Commissioner of Income Tax,
Aayakar Bhawan, Near White Church
Indore.
 7. M.R. Somshekhra,
Aged about 50 years,
Inspector of Income Tax,
C/o The Additional Commissioner
of Income Tax, Ujjain(M.P)
 8. Shri R.N. Mathur,
Aged about 46 years,
Inspector of Income Tax,
C/o The Commissioner of Income
Tax, Bhopal(M.P.)
 9. Smt. V.Savitri,
Aged about 50 years,
Inspector of Income Tax, C/o the
Commissioner of Income Tax, Indore(MP)
- Q

10 Smt. K Rajendran,
Aged about 48 years,
Inspector of Income Tax,
C/o the Commissioner of Income
Tax, tBhopal (M.P.)

RESPONDENTS

(By Advocate - Shri B.da.silva)

O R D E R

By Madan Mohan, Judicial Member -

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

"ii) to quash the impugned rejection order dated 7.3.2000 (Annexure A/3).

iii) to quash, modify read-down or issue appropriate directions in the matter of application of general principles of seniority as contained in Annexure A/1 and A/2 in its application to the respondent department, extent necessary for the purposes of the instant petition.

iv) to direct the official respondents to correct the seniority position of the applicant over and above the private respondents with all consequential benefits of pay, perk and status and arrears thereof"

2. The brief facts of the case are as follows:

The applicant is working as Inspector of Income Tax in the office of Dy.C.I.T. Circle 1(1) indore. The applicant seeks to assail the grant of seniority to junior stenographers who got promoted in the cadre of Inspector, Income Tax by virtue of special quota/privilege provided to them by an amendment to the Recruitment Rules, 1986 without prejudice to the rights of the applicant by virtue of decision of this Tribunal vide its common order dated 30.1.2001 passed in OA 149/92 and OA No.837/97 wherein directions have been issued for reconsideration and necessary amendments of the Recruitment Rules itself. In both of these OAs, provisions of quota to stenographers was called in question, the applicant being one of the petitioners in these original applications. Due to



the ongoing restructuring of the respondent department, further promotions to the post of Income Tax Officers (Group B) are likely to take place en-masse. Such juniors (stenographers) who by virtue of operation of special quota have superseded the applicant in the matter of promotion to the post of Inspector, have also been granted consequential accelerated seniority by virtue of their accelerated promotions qua the quota/ privilege, which is akin to reservation. Hence this application is filed. The representation of the applicant in this regard has been rejected by Annexure A-3.

3. Heard the learned counsel for both parties. The counsel for the respondents raised a preliminary objection and argued that a writ petition No.3875 of 2001 was filed in the Hon'ble High Court of Madhya Pradesh, Jabalpur by V.J.Sathish Kumar & Others Vs. UOI & Others against the Tribunal's order dated 30.1.2001. The Hon'ble High Court of Madhya Pradesh, Jabalpur, in their order dated 1.11.2003 have held as under:

"This rule has been in force from the year 1986. The stenographers' guild has not been made a party, if any order is passed, it will be to the detriment of the stenographers and that is why the Tribunal did not quash the Rule. On the contrary it gave directions taking into account the hardships faced by the ministerial staff. It is submitted that subsequent to the order passed by the Tribunal, Prabhu Committee has been appointed to re-determine the rules and Income Tax department is seized of the matter. Keeping in view the hardship caused to stenographers and ministerial staff, it would be open to the department to reconsider the matter without reference to the directions made by the Tribunal and the directions of the learned Tribunal were not called for, considering the fact that the rules were in force since 1986."

It is further argued that the Hon'ble High Court has directed that it would be open to the Department to reconsider the matter without reference to the directions made by the Tribunal and the directions of the Tribunal were not called for, considering the fact that the rules were in force since 1986. Hence in view of the directions given by the Hon'ble High Court in the aforesaid writ

Q

petition, this Tribunal cannot pass any order in this OA.

4. We dispose of this OA with the direction that the order passed by the aforesaid Hon'ble High Court dated 1.11.03 shall be applicable for the applicant.

5. We dispose of this OA accordingly.

(Madan Mohan)
Judicial Member

(M.P. Singh)
Vice Chairman

aa.

पृष्ठंकन सं ओ/न्या.....जबलपुर, दि.....
प्रतिलिपि आदेशित:-

- (1) सचिव, उच्च न्यायालय दार एसोसिएशन, जबलपुर
- (2) आवेदक श्री/श्रीमती/कु.....के काउंसल M. Sharma
- (3) प्रत्यक्षी श्री/श्रीमती/कु.....के काउंसल B. Sharma

(4) न्यायालय, को.प्र.अ., जबलपुर न्यायपीठ
सूचना एवं आवश्यक कार्यवाही हेतु

उप रजिस्ट्रार

16-8-04

Issued
On 16-8-04