

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 610 of 2001

Jabalpur, this the 16th day of October, 2003

Hon'ble Shri J.K. Kaushik, Judicial Member
Hon'ble Shri Anand Kumar Bhatt, Administrative Member

Shri Akbarali Zarief, aged about
60 years, son of Shri H. Zarief,
Occupation : Income Tax Inspector
(Retired), Office of the Deputy
Commissioner of Income Tax, Circle
P-(1), Aayakar Bhawan, Near White
Church Colony, Indore (M.P.). ... Applicant

(By Advocate - Shri Bhagwan Singh)

V e r s u s

1. Union of India, through the
Secretary, Ministry of Finance,
North Block, New Delhi.
2. The Commissioner of Income Tax,
Aayakar Bhawan, Near White Church
Colony, Indore (M.P.).
3. The Zonal Accounts Officer, Central
Board of Direct Taxes, Maharna
Pratap Nagar, Bhopal (M.P.). ... Respondents

(By Advocate - Shri B. da. Silva)

O R D E R (Oral)

By Anand Kumar Bhatt, Administrative Member -

In the present Original Application the applicant is aggrieved by the order Annexure A-1, whereby his Controlling Officer has been requested to re-fix his pay and recover the excess ^{amount} about/paid to him because of two advance increments given to him with effect from 29.08.1983, for which he was not entitled.

2. The facts in brief are that the applicant joined the Income Tax Department in the year 1965 as Upper Division Clerk (for short UDC). He cleared the departmental examination for Income Tax Inspector held in the year 1981 and for which he was granted two advance increments with effect from 06.04.1983. The applicant was further promoted as Supervisor.

Later he was given the benefits of IVth and Vth Central Pay Commissions and the applicants' pay was refixed with effect from 01.01.1986. He was promoted to the post of Inspector in the scale of Rs. 1640-2900/- vide order No. 91, dated 27.03.1982 of the CIT, Bhopal. After the last re-fixation with effect from 01.01.1996 in the scale of Rs. 5500-9000/- he retired on 31.01.2001 with his basic salary of Rs. 8,821/- After retirement the Zonal Accounts Officer, CBDT, Bhopal found that he was not eligible for the advance increments which he was given as Head Clerk for passing the departmental examination for Inspectors. Accordingly instructions were given to re-fix his pay and recover the excess amount paid. The excess amount as per the respondents worked out to Rs. 40,668/- which was recovered from his DCRG.

3. We have seen the pleadings and records of the case and have heard the counsel on both the sides.

4. There have been a number of cases decided by this Bench as well as by the Chandigarh Bench of the Tribunal on the issue. All these decisions are based on the Full Bench Judgment of the Apex Court in the case of R.H. Reddy and other versus National Institute of Rural Development and others reported in 2002(2) ATJ 205 in which it was held that the authorities were entitled to refix the pay if the same is wrongly fixed earlier, but no recovery can be made from the employee concerned. Relying on this judgment, the Chandigarh Bench of the Tribunal decided the case of R.N. Bhatti Versus Union of India and others reported in 2002(3) ATJ 430. Similar judgments have also been passed by this Bench of the Tribunal in the case of Ku. C.P. Amini vs. Union of India and others in OA No. 274/1991 on 19.02.1996 and in a recent judgment in OA No. 321/2001, decided on 01.08.2003, where the

Ans

present two members of this Bench were parties.

5. Under the circumstances we have no hesitation in following the above judgments and order that the ~~excess~~ recovery made from the applicant which according to the respondents is Rs. 40,668/- and which has been recovered by the respondents be refunded to the applicant within a period of one month from the date of receipt of copy of this order. In case the amount is not refunded in the said time period, the respondents will be liable to pay interest at the the rate of 8% to the applicant. However the respondents are free to refix the pay of the applicant to rectify the mistake committed earlier. Original Application is allowed as above. No costs.

Anand Kumar Bhatt

(Anand Kumar Bhatt)
Administrative Member

J.K. Kaushik

(J.K. Kaushik)
Judicial Member

पूर्वांकन रां ओ/जा..... अधिकारी निः.....

"SA" अधिकारी निः

(1) अधिकारी निः

(2) अधिकारी निः

(3) अधिकारी निः

(4) अधिकारी निः

कामना विभाग

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J.K. Kaushik

23/10/03

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