

CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH
JABALPUR

O.A. No. 644/2001

Jabalpur, this the 13th November, 2003

HON'BLE SHRI SARWESHWAR JHA, MEMBER (A)
HON'BLE SHRI BHARAT BHUSHAN, MEMBER (J)

Mahesh Chandra Saxena,
Son of Late Shri S.P.Saxena,
Income Tax Inspector (Retd.),
R/o 49 Punjab National Bank Colony,
Idgah, Hills,
Bhopal, M.P.

... Applicant

(By Advocate: Shri B.S.Thakur)

versus

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

... Respondents

(By Advocate: Sh. B.Dasilva through Sh. Sayed
Akhtar)

O R D E R (ORAL)

By Hon'ble Shri Sarweshwar Jha, Member (A):

Heard the learned counsel for both the
parties.

2. The applicant has preferred this OA
against the orders of the respondents dated
26.6.2001, placed at Annexure A1, whereby an
amount of Rs.54,305/- is sought to be recovered
from the applicant on the ground that two
advance increments ~~had been wrong~~ granted to him as far back as
in the year 1983 (1981 as submitted by the
learned counsel for the applicant during ^{the} course

Sarweshwar Jha

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of the arguments) while the applicant had passed the departmental examination for promotion to the Income Tax Inspectors Grade. This amount is reported to have been recovered from the applicant from his DCRG. The applicant has, accordingly, prayed that the said impugned order may be quashed, and that the respondents be directed to fix pension on the basis of the revised pay scale and basic pay drawn on the date of retirement and further that his gratuity may be worked out on the basis of the revised pay scale and further that leave encashment benefit be also be drawn in his favour in the pay scale of Rs.5500-9000.

3. In this connection, the applicant has also cited the decision of this Tribunal in OA No.610/2001, decided on 16.10.2003 in which the learned counsel for the applicant has submitted that a similarly placed case has been dealt with. He has submitted that the aforesaid decision of the Tribunal, being that in a similarly placed case, may also be extended to him.

4. The learned counsel for the respondents has drawn our attention to paragraphs 10 and 12 of the reply of the respondents in which details of the departmental examination for Inspectors, in which the applicant claims to have appeared and as a result of which two advance increments had been granted to the applicant and also the

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circumstances under which the said benefits are to be extended to the candidates who passed the said departmental examination, ~~are given~~ given.

5. It is observed that the respondents have taken a position that the two advance increments granted to the applicant on passing the departmental examination for Inspectors held in July, 1973 ^{clear} was in/violation of the Government orders contained in the CBR's letter dated 08.12.1960 (Annexure R3) and accordingly, the two advance increments granted to the applicant based on the departmental examination for Inspectors held in July, 1973 were withdrawn and hence the recovery wide orders of the respondents dated 26.6.2001 (Annexure A-1 to the OA).

6. It is surprising that the mistake in granting two advance increments to the applicant was detected after almost 20 years of the grant of the two advance increments and around the time the applicant was due to retire on superannuation.

7. It is also observed that the grant of two advance increments in the case of the applicant was made by the respondents' themselves and it was not based on any misrepresentation of facts by the applicant.

8. We have also gone through the orders of this Tribunal in OA No.610/2001 and we find that this case also pertains to a similarly placed case ^{The} the applicant in the said case having joined ^{The} Income Tax Department as a UDC and having cleared the departmental examination for

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Subhash Mehta

Income Tax Inspectors held in the year 1981 had been granted two advance increments w.e.f.

6.4.1983. In the said case also similar recoveries had been ordered ^{and the respondents} ~~had~~ ^{been} of the Tribunal in the said OA ~~had~~ ^{had} directed ~~the recoveries~~ to refund ~~to~~ to the applicant therein.

It had also been directed by the Tribunal that the respondents would be liable to pay interest at the rate of 8% on the amount which was refunded to the applicant by the respondents in the said case.

9. Without going into the details of the said case, we prima-facie find that the cited by the learned counsel for the applicant case ~~/~~ appears to be identical with the present one, and, therefore, it would not be inappropriate if the instant OA is also disposed of with directions to the respondents to consider the case of the applicant in the light of the decision ~~of~~ of this Tribunal in OA No.610/2001 decided on 16.10.2003.

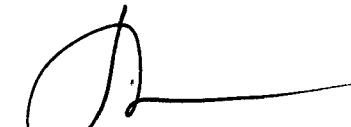
10. Keeping in view the facts and circumstances of the case and also after hearing the learned counsel of both the sides and having perused the material on the record, we, accordingly, dispose of this OA in the light of the observations as given above and direct the respondents to dispose it of by issuing a reasoned and speaking order within a period of two months, keeping in view the decision ~~of~~ of this Tribunal in the OA mentioned above.

Jawahar Mehta

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11. With this, this OA stands disposed of in terms of the above directions. No costs.



(BHARAT BHUSHAN)
MEMBER (J)



(SARWESHWAR JHA)
MEMBER (A)

/rao/

Faeeel
19.11.

कृष्णकल रां ओ/न्या..... असापुर, दि.....

प्रदिविनि/म वा..... असापुर

- (1) राधिका, राधा वा..... असापुर, दि..... नामस्वरूप B. S. Thakur, Adv.
- (2) अमोदा वा..... असापुर, दि..... नामस्वरूप B. dasilva, Adv.
- (3) ज्योति वा..... असापुर, दि..... नामस्वरूप
- (4) गंगाधर, गंगा वा..... असापुर, दि..... नामस्वरूप

T. Bhagwan
उप असापुर
19.11.03