

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 817 of 2002

Jabalpur, this the 2<sup>nd</sup> day of September 2004

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

Shri Tapas Kiran Ray,  
S/o Late Sailesh Chandra Ray,  
aged 52 years,  
Senior Tax Assistant,  
Office of Commissioner of Income Tax,  
Jabalpur.

APPLICANT

(By Advocate - Name)

VERSUS

1. Union of India,  
Through: The Secretary,  
Ministry of Finance  
North Block,  
New Delhi.
2. The Chairmen,  
Central Board of Direct Taxes,  
North Block,  
New Delhi.
3. Chief Commissioner of Income Tax,  
Aaykar Bhawan,  
Hoshangabad Road  
Bhopal

RESPONDENTS

4. Commissioner of Income Tax, Jabalpur  
(By Advocate - Shri B.da.Silva)

ORDER

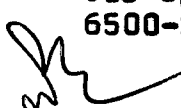
By M.P. Singh, Vice Chairman -

None is present on behalf of the applicant. Since, it is an old matter of the year 2002, we are disposing of this OA by invoking the provisions of Rule 15 of Central Administrative Tribunal(procedure) Rules, 1987.

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

"(i) set aside the order dated 4.10.2001 to the extent the applicant is concerned (Annexure A-7) as also the Memo dated 9.9.2002 rejecting the representation of applicant as illegal and improper (Annexure A-15);

(ii) direct the respondents to consider applicant for two upgradation in the pay-scale of Rs.5500-175-9000 and 6500-200-1050;"



3. The brief facts of the case are that the applicant was appointed as a Primary School Teacher on 6.12.1967 in Dandakaranya Project. He was promoted to the post of untrained Graduate Teacher in Middle School w.e.f. 19.1.1984. He was declared surplus in the Dandakaranya Project and was redeployed in the Income Tax Department w.e.f. 8.4.1988 as Upper Division Clerk in the scale of Rs.1200-2040. In the meantime the recommendations of the Chhattopadhyay Commission were accepted by the Government and the pay scales of the teachers were revised. Initially the pay of the applicant was not revised consequent to the recommendations of the Chattopadhyay Commission, however, in pursuance of the decision of the Hon'ble Supreme Court, the applicant was placed in the pay scale of Rs.1400-2600 w.e.f. 1.1.1986. Thereafter, he has been drawing the corresponding pay scale of Rs.5000-8000 recommended by the Vth CPC w.e.f. 1.1.1996. He was promoted as Sr. Tax Assistant in the same pay scale of Rs.5000-8000 w.e.f. 22.10.2001. According to the applicant, he was allowed the senior <sup>1</sup> ~~pay~~ scale of Rs.1400-2600 of Teachers after completion of 12 years of service, in terms of the recommendations of the Chattopadhyay Commission, w.e.f. 1.1.1986 but he has not been allowed the second financial upgradation in terms of the Assured Career Progression Scheme issued by the Govt. of India, Ministry of Personnel, Public Grievances & Pensions (Department of Personnel & Training) vide their OM dated 9.8.1999, on completion of 24 years of service. Aggrieved by this, the applicant has submitted a representation on 7.5.2002 which has been rejected by the respondents vide order dated 9.9.2002. Therefore, the applicant has filed this O.A. claiming the afore-mentioned reliefs.


3. The respondents in their reply have stated that the applicant was initially appointed as a Primary School Teacher on 6.12.1967 in the pay scale of Rs.85-140 and was later on, promoted as untrained Graduate Teacher on 19.1.1984 in the Dandakaranya Project. As per applicant's own statement, he was



allowed senior pay scale on completion of 12 years of service. This, as well as the promotion he got earlier as untrained Graduate Teacher, will be counted towards the grant of benefits under the ACP scheme. According to the respondents, the promotion from the post of UDC(Rs.4000-6000) to the intermediary post of Tax Assistant (Rs.4500-7000) was not considered as promotion as per the DOPT's instructions issued vide CBDT's letter dated 9.7.2001. The applicant was redeployed in the present department as UDC on 8.4.1988 and not by direct recruitment. He was promoted on 22.10.2001 to the post of Sr.TA in the pay scale of Rs.5000-8000. He got actual promotion on the basis of eligibility of qualifying service in the feeder cadre of UDC and qualifying the departmental examination of UDCs being essential condition for promotion to the post of Sr.T.A. As the applicant was already carrying the higher scale, his pay was not revised again on promotion.


4. Heard the learned counsel for the respondents and perused the pleadings carefully.

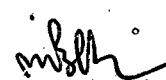
5. It is an admitted position that the applicant, who was earlier Primary School Teacher in the Dandakaranya Project, on the recommendations of the Chattopadhyay Commission was granted the senior pay scale of Rs.1400-2600 on completion of 12 years of service. The revised pay scales of Primary School Teachers recommended by the Chattopadhyay Commission were Rs.1200-2040; Rs.1400-2600; and Rs.1640-2900. The pay scales of Rs.1200-2040 and Rs.1400-2600 (IV CPC) were further revised by the Vth CPC as Rs.4000-6000 and Rs.5000-8000 respectively. We find that it was only in March, 1998 that the Hon'ble Supreme Court has allowed to the Teachers the same pay scale granted by the Chattopadhyay Commission. In order to implement the Hon'ble Supreme Court's judgment, although the applicant was working as UDC had been granted the scale of Rs.1400-2600(now revised to Rs.5000-8000) as the applicant has completed more than 12 years of service as Teacher in



Dandakaranya Projct and was eligible for grant of senior scale of Rs.1400-2600 on completion of 12 years. Therefore, the applicant has already got one upgradation. He is now eligible for second upgradation as he has already completed 24 years of service. The promotions granted to him in his parent department, and after redeployment in the present department have become redundant. In pursuance of the Hon'ble Supreme Court's decision, the applicant has been granted the scale of Primary School Teacher of Rs.1200-1800 and thereafter on completion of 12 years service he was granted the next senior scale(recommended by the Chattopadhyay Commission) of Rs.1400-2600. Thus, the applicant during his entire service has got only one promotion on completion of 12 years service and he is eligible for next upgradation on completion of 24 years of service. Thus, the contention of the respondents that the applicant has already got two promotions has become redundant because of the subsequent decision of the Hon'ble Supreme Court for granting the benefit of Chattopadhyay Commission to the Teachers.

6. In the result, the OA is allowed. The impugned orders dated 9.9.2002 (Annexure A-15) and 4.10.01 (Annexure-A-7)(so far as it relates to the applicant) are quashed and set aside. The respondents are directed to grant the applicant the second financial upgradation as per the hierarchy of the service after completion of 24 years of his service, in terms of the ACP Scheme, within a period of three months from the date of communication of this order. The respondents are further directed to grant all consequential benefits including arrears of pay to the applicant within the aforesaid period of three months. No costs.

  
(Madan Mohan)  
Judicial Member

  
(M.P. Singh)  
Vice Chairman