

Central Administrative Tribunal  
Principal Bench  
New Delhi

O.A.No.310/2014

Order Reserved on: 18.07.2017  
Order pronounced on 15.09.2017

Hon'ble Shri V. Ajay Kumar, Member (J)  
Hon'ble Shri Shekhar Agarwal, Member (A)

Pankaj Mamgain  
Stenographer Grade-II  
Group `C'  
Aged 42 years  
S/o Shri P.C. Mamgain  
R/o E-1/10, Mahavir Enclave  
New Delhi – 110 045.

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Applicant

(By Advocate: Mr. Ashish Nischal)

Versus

1. Union of India  
Through its Secretary  
Department of Revenue  
North Block  
New Delhi – 110 001.
2. Central Board of Direct Taxes  
Through its Chairman  
Department of Revenue  
Ministry of Finance  
North Block  
New Delhi – 110 001.
3. Chief Commissioner of Income Tax  
Delhi-I Division, C R Building  
I.P.Estates, New Delhi – 110 002.

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Respondents

(By Advocate: Shri R.N.Singh)

**ORDER****By V. Ajay Kumar, Member (J):**

The applicant, a Stenographer Grade-II, under the 3<sup>rd</sup> Respondent, filed the OA seeking a direction to the respondent to count his past service rendered by him w.e.f. 06.02.1996 to 08.07.2011 in the Directorate of Income Tax (IT and Audit) towards eligibility of service for promotion.

2. Heard Shri Ashish Nischal, the learned counsel for the applicant and Shri R.N.Singh, the learned counsel for the respondents, and perused the pleadings on record.

3. The brief facts, as narrated by the applicant in his amended OA, are that he was originally appointed through Staff Selection Commission as Stenographer Grade III, in the then pre-revised pay scale of Rs.1200-2040 (revised Pay Band-I – Rs.5200-20200 with Grade Pay Rs.2400) in the office of the Directorate of Income Tax (IT and Audit), on 06.02.1996. Later, he was promoted as Stenographer Grade II in the then pay scale of Rs.5000-8000 (revised to Pay Band-II Rs.9300-34800 with GP of Rs.4200) and Stenographer Grade I in Pay Band-II Rs.9300-34800 with GP Rs.4200/- on 16.06.2003 and 01.06.2009 respectively.

4. While he was working as such, the 2<sup>nd</sup> Respondent-CBDT vide Annexure A7 dated 26.10.2010, called for applications for filling up of

vacant posts of Stenographers Grade-II in the Income Tax Department on transfer, on permanent basis. In response thereto the applicant made an application and consequently, on his selection, he was appointed as Stenographer Grade-III (erstwhile Stenographer Grade-II), in the Pay Band of Rs.5200-20200 with Grade Pay of Rs.2400 vide Order No.84/2011-2012/Personnel dated 20.06.2011. Before the applicant was transferred to the Income Tax Department, he was reverted from the post of Steno Grade-I to the post of Steno Grade-III, as per rules. Accordingly, on his joining in the office of the 3<sup>rd</sup> Respondent, his seniority was fixed at the bottom of the Stenographers Grade-III category. He passed the departmental examination for Inspectors in 2012. Thereafter, the applicant made a representation dated 26.08.2013 requesting the 3<sup>rd</sup> Respondent to consider his past service in the previous office for counting of eligibility service for further promotion as Inspector. The said representation was rejected by the respondents vide Annexure A1, dated 12.09.2013.

5. The relevant part of the Annexure A7 Notification dated 26.10.2010, in pursuance of which the applicant was selected and appointed under the 3<sup>rd</sup> Respondent read as follows:

"2. The Stenographers opting for transfer shall be governed by the following conditions:

- (i) .....
- (ii) .....
- (iii) .....
- (iv) Stenographers who join the Income Tax Department shall be placed below the junior most Stenographer Grade II already working in the respective Cadre Controlling Authority. The service rendered by candidates in the Ministries/Departments of the Govt. of India or Subordinate/Attached Offices of the

Ministries/Departments prior to joining the Income Tax Department will not be taken into account for considering his seniority and promotion. However, such service will be considered for pay protection as per DoPT instructions. Inter-se seniority of such transferees shall be decided with reference to the date of joining (i.e. those who joined earlier on inter-department transfer at the same Charge shall be senior to those who will join at subsequent date). If more than one such transferees join a charge on the same date their inter-se seniority shall be decided by the length of service they have rendered with the Ministry/Department or Subordinate/Attached Office of the Government of India, prior to joining the Income Tax Department and DoPT guidelines shall be applicable."

6. The learned counsel for the applicant, while not denying the fact of the condition in the Annexure A7, dated 26.10.2010, itself that his past service will not be counted for the purposes of seniority and promotion, submits that such a condition is illegal and inoperative, in view of the law declared by various Courts.

7. The learned counsel for the applicant failed to show any valid reason how not counting the past service by the respondents for the purposes of seniority and promotion is bad, in view of his admission with regard to the pre-condition in Annexure A7 dated 26.10.2010. He also failed to show any settled principle of law in his favour.

8. In the circumstances and for the aforesaid reasons, we do not find any merit in the OA.

(Shekhar Agarwal)  
Member (A)

(V. Ajay Kumar)  
Member (J)