

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI****C.P. No.365/2017 with MA No.2088/2017 In
O.A No.1770/2010****Reserved On:09.11.2017
Pronounced on:15.11.2017****Hon'ble Mr. V. Ajay Kumar, Member (J)
Hon'ble Ms. Nita Chowdhury, Member (A)**

Rakesh Kumar Gupta (Visually Handicapped)
Emp. ID 19900636
Aged about 52 years old
S/o Late Shri Kanhaiya Lal Gupta
R/o 30/LG-I, Teachers Apartments, Block-A
Dilshad Colony,
Delhi-110095.
O/o GBSSSS (1106011), New Seemapuri,
Delhi-110095.

Petitioner

(Petitioner in person)

Versus

1. Dr.M.M. Kutty
(Chief Secretary, GNCT Delhi),
O/o A Wing, 5th Floor, Delhi Sectt.,
I.P. Estate, New Delhi-110002.
Email: csdelhi@nic.in.
2. Smt. Saumya Gupta
(Director of Education, GNCT Delhi),
O/o the Director of Education GNCTD,
Room No.12, Old Secretariat,
Delhi-110054.
Email: diredu@nic.in.
3. Shri Kishan Swarup Kanak
(retired on 30.06.2011 as then Principal & HOS of
GBSSS Seemapuri Delhi)
Through Shri Jitendra Kumar (Principal & HOS)
O/o GBSSS (School ID No.1106009),
Old Seemapuri,
Delhi-110095.

4. Shri Munnu Lal Mishra (then DDO of said school)
Through Shri Narottam Puri (Vice Principal & DDO),
O/o GBSSS (School ID No.1106009),
Old Seemapuri,
Delhi-110095.
5. Shri Parveen Kumar (Vice Principal, present
HOS & DDO)
(presently, petitioner's Service Book is under his
Custody),
O/o GBSSS (School ID No.1106011),
New Seemapuri,
Delhi-110095.
Emails: school1106011@rediffmail.com,
1106011hos@gamil.com
Parveenkumar1972@gmail.com.. ...Respondents

(By Advocate: Shri Vijay Pandita)

ORDER

By Mr. V. Ajay Kumar, Member (J)

Heard the petitioner, who appeared in person and Shri Vijay Pandita, learned counsel for the respondents.

2. The petitioner filed the Contempt Petition (CP) alleging violation of the orders of this Tribunal in OA No.1770/2010 dated 26.05.2011 and the same reads as under:-

"The applicant has made a prayer for a direction to the respondents to release his salary for the month of February and to treat the period from 06.10.2009 to 22.10.2009 to be on duty.

2. Stated, in brief, his case is that he filed OA No. 2841/2009 against his transfer from Delhi; ultimately the order was cancelled and the O.A. was disposed of as infructuous. The applicant represented for payment of his salary for the entire period. He submits that except for the month of February 2010 his salary for the entire period was released to him. Learned counsel for the respondents also submits that his salary for the entire period had been released. As far as the month of February 2010 is concerned Rs. 20,309/- was deducted towards income tax payable by him.

3. Learned counsel for the applicant submits that the statement in Form No. 16 received by him indicated that the total tax deducted from his salary was only Rs.6,471/-, therefore, he failed to understand how Rs.20,309/- came to be deducted from his salary

in the month of February, 2010. It was clarified on behalf of the respondents that earlier calculation of the applicant's income tax liability at Rs. 6,471/- was on the basis of an estimate which supposed that the applicant would produce documents in support of exemption claimed towards interest on house building loan, GPF and other contributions. When the applicant did not produce the documents his income tax liability was recalculated and assessed at Rs.20,309/- which had to be deducted at source from his salary. The revised Form No.16 was also supplied to the applicant. The Drawing and Disbursing officer of the organization was present in the Court. He fairly admitted that issue of the statement earlier computing the tax liability at Rs. 6,471/- was a mistake on his part. Under the Income Tax Act he was duty bound to make correct deduction of tax at source.

4. Learned counsel for the respondents submits that this is a matter relating to assessment of income tax and the applicant could take up the matter with the Income Tax authorities by supplying them requisite documents. It is not permissible to raise this dispute before the Tribunal.

5. We agree with this proposition. It is not for this Tribunal to adjudicate on the tax liability of the applicant and the deductions made by the respondent authorities at source towards his income tax liability.

6. Learned counsel for the applicant draws our attention to the second component of his prayer that the period from 06.10.2009 to 22.10.2009 should be treated as on duty and necessary entry to that effect should be made in his service-book. Since the learned counsel for the respondents has already stated that full salary for the entire period except for the deduction on account of income tax liability had been paid to the applicant, it would go to prove that the entire period had been treated as [on duty] .

7. In case the respondent authorities have not made appropriate entries in his service-book, the applicant could make a representation in that regard to the competent authority. We are convinced that on getting such a representation the respondent authority would do the needful as per rules.

8. The O.A. is disposed of in terms of the aforesaid observations. No costs”.

3. The petitioner has also filed MA No.2088/2017 seeking condonation of delay of 5 years in filing the CP No.365/2017.

4. A careful examination of the order of this Tribunal in OA No.1770/2010 clearly indicates that no positive directions were issued to the respondents while disposing of the said OA. The only observation made was that ‘if the authorities have not made appropriate entries in the Service Book of the petitioner, he could

make a representation to the competent authority and the respondents would do the needful as per the rules’.

5. Further, the petitioner has failed to give any valid reason for condonation of the abnormal delay in filing the CP. The only reason given by the petitioner is that the respondents furnished the copy of the Service Book in December, 2015.

6. In the circumstances, we do not find any merit in the MA as well as in CP and accordingly the same are dismissed.

(NITA CHOWDHURY)
MEMBER (A)

(V. AJAY KUMAR)
MEMBER (J)

Rakesh