

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

M.A. No. 2951/2013 in
O.A. No. 62/2007

New Delhi, this the 12th day of December, 2017

**HON'BLE MR. V. AJAY KUMAR, MEMBER (J)
HON'BLE MS. NITA CHOWDHURY, MEMBER (A)**

Sunil Saxena,
S/o Shri S.B. Saxena,
R/o C-15, Income Tax Colony,
Hari Parwat, Agra-282002.

.. Applicant

(By Advocate Shri Yogesh Sharma)

Versus

1. Union of India through,
The Secretary,
Ministry of Finance,
Department of Revenue,
North Block, New Delhi.
2. The Chairman,
Central Board of Direct Taxes,
Ministry of Finance,
Department of Revenue,
New Delhi.
3. The Chief Commissioner of Income Tax (CCA),
U.P. (West) Region, 16/69,
Civil Lines, Kanpur.
4. The Commissioner of Income Tax-I,
Ayakar Bhawan, Sanjay Place,
Agra. .. Respondents

(By Advocate Shri Rajeev Kumar with Shri P.K. Singh)

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

Heard both the sides.

2. O.A. No. 62/2007 filed by the applicant was disposed of by this Tribunal on 17.05.2007 as under:

“By virtue of this OA applicant, who holds a post graduation degree, has sought quashing of order passed by the respondents on 19.9.2006, whereby he has been denied restoration of order dated 4.3.2004, placing him in the pay scale of Rs.1350-2200 and designating him as DEO Grade ‘B’ w.e.f. 27.3.1989 with all consequential benefits.

2. In the light of a coordinate Bench decision on an identical issue in the matter of *Rajiv Kumar Jain & another v. Union of India & others*, OA No.2523/2006, decided on 27.4.2007, where the benefit of the pay scale of Rs.1350-2200 has been withdrawn, directions have been issued to respondents to treat applicants therein in the same pay scale with all consequential benefits of financial upgradation and next promotion as Office Superintendent.

3. Learned counsel of applicant states that on all fours the applicant mutatis mutandis is covered by the aforesaid decision.

4. On the other hand, learned counsel of respondents Shri V.P. Uppal has vehemently opposed the contentions and stated that no opportunity of being heard before withdrawing the benefit is required and as applicant was wrongly promoted on misrepresentation of Board’s letter dated 4.9.2003, mistake has been rectified.

5. First of all, the mistake as alleged by the respondents, which causes civil consequences, cannot be rectified without observing the principles of natural justice, as held by the Apex Court in *Shekhar Ghosh v. Union of India and another, 2007 (1) SCC (L&S) 247*.

6. On careful consideration of the rival contentions of the parties, we are of the considered view that the issue raised in the present OA has already been laid at finality by the Tribunal in OA-2523/2006 (supra) and the applicant is entitled to extension of benefit of the orders passed therein. Accordingly, OA is allowed. Impugned order is set aside. Respondents are directed to restore back order dated 4.3.2004 and all its consequences to applicant with pay and allowances, within a period of three months from the date of receipt of a copy of this order. No costs.”

3. The applicant in the O.A. filed the instant M.A. seeking execution of the aforesaid order on the ground that though the respondents have restored the orders dated 04.03.2004, however, not paid the arrears as per the orders of this Tribunal.

4. On the other hand, the learned counsel for the respondents submits that they have fully complied with the orders of this Tribunal in the O.A. on par with Shri Rajiv Kumar Jain, who was the applicant in O.A. No.2523/2006, basing on whose order the O.A. No.62/2007 was also allowed and, accordingly, prays for dismissal of the M.A.

5. It is not in dispute that the respondents have granted all the benefits, whatever granted to Shri Rajiv Kumar Jain who was the applicant in O.A. No.2523/2006, on the basis of which the O.A. of the applicant also had been allowed.

6. In the circumstances, we are satisfied that the orders of this Tribunal in O.A. No.62/2007 are fully complied with. Accordingly, the MA is dismissed.

(Nita Chowdhury)
Member (A)

(V. Ajay Kumar)
Member (J)

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