

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA No.3132/2013

New Delhi this the 17th day of September, 2015

Hon'ble Shri A.K. Bhardwaj, Member (J)
Hon'ble Dr. Birendra Kumar Sinha, Member (A)

Shri Rajeev Kumar Jain
Office Superintendent,
In the office of Commissioner of Income Tax-1,
Aayakar Bhawan, Sanjay Place,
Agra.

... Applicant

(Present: None)

VERSUS

Union of India: through

1. Secretary,
Ministry of Finance, Govt. of India,
North Block, New Delhi.
2. Central Board of Direct Taxes (CCA),
U.P. (West Region),
Through its Chairman, New Delhi.
2. Chief Commissioner of Income Tax-1,
16/69, Aayakar Bhawan,
Civil Lines, Kanpur.
3. Commissioner of Income Tax,
Aayakar Bhawan, Sanjay Place,
Agra.

... Respondents

(By Advocate Mr. Ashok Kumar)

ORDER (ORAL)

Hon'ble Mr.A.K.Bhardwaj, Member (J):

There is no appearance on behalf of the applicant even on
the revised call. The prayer made in the OA read thus:-

- “ 8.1. That this Hon'ble Tribunal may graciously be
pleased to allow this application and quash
the impugned order in so far as it adversely
affects the applicant.

- 8.2. May be further pleased to direct the respondents to give all consequential benefits including arrears to the applicant from the date from which his juniors had been promoted and the applicant was illegally ignored.
- 8.3 Pass any other or further order which this Hon'ble Tribunal may deem fit and proper in the circumstances of the case.
- 8.4 That the cost of the proceedings may kindly be granted in favour of the applicant and against the Respondents."

According to learned counsel for the respondents, the prayer made by the applicant in the OA is for issuance of direction to respondents to confer the same benefits upon the applicant as has been granted to his juniors, namely, Shri Jatinder Kumar Sharma and Shri Daya Shanker. According to him, the benefit given to said juniors were also not in order, thus has been withdrawn. Para 1.1 of the reply read thus:-

"1.1. Matter of record. However, it is submitted that the Hon'ble CAT, Principal Bench, New Delhi vide Para 12 of its order dated 27th April, 2007 in OA 2523/2006 has not issued direction for the respondent to pay arrears for the period for which he has not worked as an Office Superintendent. A copy of the order dated 27th April, 2007 is annexed with OA as Annexure -2. Therefore, the order passed for promotion to the post of Office Superintendent vide order dated 29.03.2012 cannot be termed to have been issued in contravention of the direction contained in Para 12 of the order of the Hon'ble CAT, Principal Bench, New Delhi. A copy of the order dated 29th March, 2012 is annexed as Annexure R-1.

As regard the contention of the applicant that the arrear of pay allowed in the case of Sh. Jitendra Kumar Sharma and Daya Shankar, who were promoted to the post of O.S. w.e.f. the same date i.e. 17.03.2003 vide order

No.33/2007-08 dated 17/10.2007, it is submitted that the payment of arrear of pay was not incorporated due to oversight; hence, the arrear of Pay was wrongly allowed to them. Now, the respondent has passed a corrigendum dated 10.12.2013 which states as under:-

“In partial modification to this office order No.33/2007-08 dated 17.10.2007 circulated vide F.No.CCIT(CCA)/KNP/C&V/517/2007-08/1130 dated 17.10.2007, the officials namely Sh. Jitendra Kumar Sharma (DOB: 15.12.1962), DEO, Gr.'B' and Shri Daya Shankar, SC (DOB: 01.12.1962), DEO Gr. 'B' who were approved for promotion to the post of Office Superintendent in the pay scale of 5000-175-9000 w.e.f. 17.03.2003, may be treated as approved for promotion to the post of 'Office Superintendent' notionally w.e.f. 17.03.2003 and they will not be entitled for any arrear of pay for the period they did not function as Office Superintendent.”

The copy of the corrigendum dated 10.12.2013 mentioned above is annexed as Annexure R-2.

In view of the above order, the anomaly raised by the applicant has now been removed by passing the corrigendum dated 10.12.2013 in regard to payment of arrear and hence the claim of arrears of pay is not admissible in the case of the applicant.”

Nevertheless, since there could be no appearance on behalf of applicant, the OA is dismissed for default. No costs.

(Dr. Birendra Kumar Sinha)
Member (A)

(A.K.Bhardwaj)
Member (J)

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