

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

O.A. No.1637 of 2017

Orders reserved on : 25.10.2018

Orders pronounced on : 31.10.2018

Hon'ble Ms. Nita Chowdhury, Member (A)

Rukmani Devi, Retd. Sr.P.S. (Group 'B')
(Aged about 60 years)
W/o Late Sh. Shyam Mohan,
R/o H.No.10423/ 2nd Floor, Gali No.2,
Bagichi Allauddin, Motia Khan, New Delhi.

....Applicant

(By Advocate : Shri M.K. Bhardwaj)

VERSUS

1. Union of India & Ors.
Through its Secretary (Revenue)
Ministry of Finance,
North Block,
New Delhi.
2. Central Board of Direct Taxes,
Through its Chairman,
North Block, New Delhi.
3. The Principal Chief Commissioner of Income Tax,
(CCA),
Delhi, CR Building,
I.P. Estate, New Delhi-110002.
4. The Principal Chief Controller of Accounts,
North Block, Vikas Bhawan, I.P. Estate,
New Delhi.
5. Dy. Commissioner of Income Tax,
(Headquarter Finance),
I.P. Estate, New Delhi.

.....Respondents

(None present)

ORDER

By filing this OA, the applicant is seeking the following reliefs:-

- “(a) To quash and set aside the impugned orders dated 29.03.2017 & 31.03.2017 and direct the respondents to restore the pay of the applicant at Rs.6900 as on

01.01.1996 with all consequential benefits and release the pension and arrears thereof as per the restored pay of Rs.6900 w.e.f. 01.01.1996.

- (b) To declare the action of the respondents in reducing the pay of applicant with retrospective effect i.e. 01.01.1996 as illegal and arbitrary and direct the respondents to fix the pay of applicant at appropriate stage in the pay scale of Rs.6500-10550 as on 01.01.1996 by following the same criteria as followed in case of similarly placed persons whose pay was fixed vide order dated 21.10.1997 and on the basis of said pay re-fix the pension as well as pensionary benefits of applicant and release the arrears as calculated on the basis of revised pay with 12% interest.
- (c) To allow the O.A. with exemplary costs.
- (d) Pass such other direction or directions order or orders as this Hon'ble Tribunal may deem fit and proper to meet the ends of justice."

2. This matter was taken up for hearing on 4.10.2018 and when the counsel for the respondents was unable to answer the query as to whether the respondents gave any notice to the applicant of this OA with regard to increment entry which was made on 1.1.1997 and which has been sought to be recovered from her after 21 years, further opportunity of two days' time was granted to their counsel to obtain the answer of the said query and this case was directed to be listed as part-heard on 12.10.2018 and on 12.10.2018, when counsel for the respondents was not present, further one last opportunity to given to the respondents to answer the said query, failing which the matter will be decided based on the record.

3. Today when this matter is taken up for hearing, again counsel for the respondents is not present. In view of the above

position, this Court proceeds to decide this matter by invoking the provisions of Rule 16 of the CAT (Procedure) Rules, 1987.

4. Accordingly, this Court heard learned counsel for the applicant and perused the material placed on record.

5. As is evident from the above, a specific query as to whether the respondents gave any notice to the applicant of this OA with regard to increment entry, which was made on 1.1.1997, and which has been sought to be recovered from her after 21 years after passing the impugned orders, as besides other pleas, this is one of the pleas raised by the applicant in the OA.

6. This Court perused the counter affidavit filed by the respondents in which they have not specifically stated that before issuing the aforesaid impugned recovery order they have issued any show cause notice to the applicant but they simply stated that the applicant has submitted a representation in this office vide letter dated 1.2.2017, which was duly considered by this office and sent to the ZAO, CBDT, New Delhi for further necessary action at their end. They further stated that applicant has been given an opportunity to verify the PBR's of that particular years and after verifying the PBR's the applicant has given her consent for revising pay fixation and processing pension papers.

7. From the above, it is quite clear that respondents have not issued any show-cause notice before giving effect to the aforesaid impugned recovery order. As such this Court feels that ends of justice would be met, if the respondents be directed to issue a

show cause notice to the applicant to file reply within one month from the date of receipt of show cause notice and after receipt of the reply from the applicant, pass a reasoned and speaking order in accordance with the rules and law on the subject within 90 days thereafter. Order accordingly. Since this Tribunal by an *ad interim* Order dated 12.5.2017 passed in this case directed that there shall be no recovery from the retiral benefits of the applicant, the same shall continue till the passing of aforesaid final order in the matter by the respondents.

8. In view of the above, the present OA is disposed of in above terms. There shall be no order as to costs.

(Nita Chowdhury)
Member (A)

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