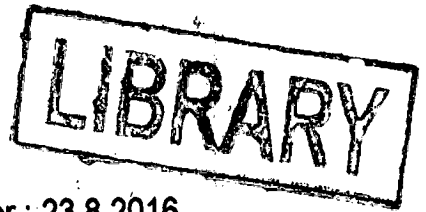


CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH



No. O.A. 350/01107/2014

Date of order : 23.8.2016

Present: Hon'ble Justice Shri Vishnu Chandra Gupta, Judicial Member
Hon'ble Ms. Jaya Das Gupta, Administrative Member

TAPAS KR. DASGUPTA

VS.

UNION OF INDIA & ORS. (Finance)

For the Applicant : Mr. S.K. Dutta, Counsel

For the Respondents : Mr. S.K. Ghosh, Counsel

ORDER (Oral)

Justice Shri Vishnu Chandra Gupta, Judicial Member:

Heard Ld. Counsel for the applicant and Ld. Counsel for the respondents.

2. The brief facts of the case are that the applicant retired as Additional Commissioner of Income Tax. Prior to it the applicant initially joined the Income Tax Department in the year 1969 as a direct recruit and ultimately reached to the stage of Additional Commission of Income Tax. It is contended by the Ld. Counsel for the applicant that till his retirement on superannuation the applicant held additional charge on a number of occasions independently with all statutory functions. He annexed a chart which is at Annexure A-1, the correctness of this chart has not been disputed. The applicant for the aforesaid Additional Charges claimed remuneration as provided in FR 49 (3) which reads as under:-

“(3)Guidelines on additional charge of the current duties of another post under FR 49. – As per FR 49 (iv), no additional pay is admissible to a Government servant who is appointed to hold current charge of the routine duties of another post irrespective of the duration of the additional charge. In practice it is observed that in a number of cases, officers are appointed to hold additional charge of current duties of another post but the duties are not defined in the order and therefore, the officer performs all the functions of the

other post including even some statutory function. However, no additional remuneration is paid to him in view of the specific language of the order of his appointment. In certain other cases, an officer is asked to hold additional charge of another post (which implies full charge of the other post), but he is not formally appointed to that post and, therefore, no additional remuneration is paid to him under FR 49. These have led to representations and litigations.

2. With a view to avoiding recurrence of such situations, the following guidelines may be followed while considering the question of entrusting additional charge of another post to an officer:-

(i) When an officer is required to discharge all the duties of the other post including the statutory functions, e.g., exercise of power derived from Acts of Parliament such as Income Tax Act or the Rules, Regulations, By-Laws made under various Articles of Constitution such as FRs, CCS (CCA) Rules, CSRs., DFPRs, etc., then steps should be taken to process the case for getting the approval of the Competent Authority and formal orders appointing the officer to the additional post should be issued. On appointment, the officer should be allowed the additional remuneration as indicated in FR 49.

(ii) Where an officer is required only to attend to the usual routine day-to-day work of non-statutory nature attached to the post, an office order may be issued clearly stating that the officer will be performing only the routine day-to-day duties of non-statutory nature and that he would not be entitled to any additional remuneration. The office order should also specify what duties he would be discharging or what duties he would not be discharging.

[G.I., Dept. of Per. & Trg., O.M. No.4/2/89-Estt. (Pay-II), dated the 11th August, 1989.]

The Law Ministry has advised that an officer appointed to perform the current duties of an appointment can exercise administrative or financial powers vested in the full-fledged incumbent of the post but he cannot exercise statutory powers, whether those powers are derived direct from an Act of Parliament, e.g., Income Tax Act or Rules, Regulations and By-Laws made under various Articles of the Constitution, e.g., Fundamental Rules, Classification, Control and Appeal Rules, Civil Service Regulations, Delegation of Financial Powers Rules, etc.

[G.I., M.H.A., O.M. No. 7/14/Estt. (A), dated the 24th January, 1963.]

Hence he claims the following reliefs:-

"a) An order directing the respondents/authorities concerned to consider the claim of the applicant regarding additional remuneration as made in the representations at Annexure A-7 and A-8 to the original application and to grant him the additional remuneration as claimed by the applicant within a period as to this Hon'ble Tribunal may seem fit and proper with interest.

b) An order directing the respondents to produce/cause production of all relevant records.

c) Any other order or further order/orders as to this Hon'ble Tribunal may seem fit and proper."

3. It was further contended that in a judgment of this Tribunal delivered in **Rajarshi Dasgupta & ors. v. Union of India & ors.** The benefit of

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additional charge was granted in similar circumstances and the same has been implemented on 8.5.2013. The order of implementation of order of CAT in aforesaid has been annexed as Annexure A-4.

4. Reply has been filed wherein it has been contended in para 6.4 that the applicant was given the charge of Additional CIT, Range 54, Kolkata and Midnapore I & II. Both these Additional CIT Range 54 of Kolkata and Midnapore are under the jurisdiction of same Commissionerate i.e. Commissioner of Income Tax-XIX Kolkata. So if the charge of Additional CIT, Range 1, Kolkata and Range 2, Kolkata, both are under the same jurisdiction, the applicant would not be entitled to any additional charges.

5. It is not in dispute that the claim of the applicant has not yet been declined.

6. Hence without commenting on the merit of the case, we direct the Chief Commissioner of Income Tax to decide the controversy by a speaking and reasoned order in the light of the earlier decision taken by this Court in **Rajarshi Dasgupta & ors. v. Union of India & ors.** which has already been implemented and also keeping in view the provisions of FR 49(3) within a period of three months from the date of production of the copy of this order and in case the applicant is found entitled to that additional remuneration the same shall be granted to him within a period of one month thereafter.

7. The O.A. is, accordingly, disposed of. No costs.

(Jaya Das Gupta)
MEMBER(A)

(Vishnu Chandra Gupta)
MEMBER(J)

SP