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CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No. OA. 350/564/2011
MA. 350/253/2011

Date of Order: 12.07.2018

Present: Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Dr. Nandita Chatterjee, Administrative Member

1. Sri Krishna Prasanna Mandal, son of Sarat Ch. Mandal, aged about 39 years, working as Data Processing Assistant, Grade – A, of the Commissioner of Income Tax (Computer Operation), 3rd Floor, Aayakar Bhawan, P-7, Chowringhee Square, Kolkata- 700 069, residing at 3A, Ananda Bhawan, 10/D, Ananda Palit Road, P. O. & P.S. Entally, Kolkata- 700 014.

2. Sri Jyotirmoy Ghosh, son of Parimal Kanti Ghosh, aged about 32 years, working as Data Processing Assistant, Grade-A, Office of the Commissioner of Income Tax (Computer Operation), 3rd Floor, Aayakar Bhawan, P-7, Chowringhee Square, Kolkata- 700 069, residing at Mahamayatala, Sashi Bhushan Sarani, P.S. Sonarpur, P. O. Garia, Kolkata- 700 084.

.....Applicants.

-versus-

1. Union of India through the Secretary to the Govt. of India, Ministry of Finance, Department of Revenue, North Block, New Delhi- 110 001.

2. The Secretary to the Govt. of India, Ministry of Finance, Department of Revenue, North Block, New Delhi- 110 001.

3. The Chairman, Central Board of Direct Taxes, Central Secretariat, North Block, New Delhi- 110 001.

4. The Director of Income Tax (Systems), ARA Centre, Ground Floor, E-2, Jhandewalan Extension, New Delhi- 110 055.

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5. The Chief Commissioner of Income Tax, Kolkata
1, Kolkata, Aayakar Bhawan, P-7, Chowringhee
Square, Kolkata- 700 069.

....Respondents.

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

For the Respondents : Mr. L.K. Chatterjee, Counsel
Mr. M.K. Ghara, Counsel

ORDER (Oral)

Per Ms. Bidisha Banerjee, Judicial Member:

Heard both.

2. On 22.07.2014 it was observed as under:

"It appears that the applicants are aggrieved by the fact that they have been placed at Grade-A, rather than Grade-B in terms of Recruitment Rules (RR in short), 1995 which has been quashed by the Principal Bench. Grade B was operated in a higher scale than in terms of RR of 1995 and after promulgation of the Recruitment Rules of 2008 whereafter the two grades merged, as it was prior to 1995 (under the 1990 Rules) they were not treated as merged group with Grade-B in terms of erstwhile Recruitment Rules, 1990 which was in operation when they had joined. They claim to be designated as Programme Assistant/Console Operator with no separation in Grade -A and Grade-B.

2. We find from the Recruitment Rules, 1995 that although Grade-A and Grade-B was separated other attributes including entry qualification and experience were same. As such after quashing of the RR of 1995, we find that no justification in continuing to place similar circumstanced employees some as Grade-A in lower scale and some as Grade-B in higher scale.

3. We also find that on 13.01.2014, the matter was referred to the Chief Commissioner of Income Tax by the Director of Income Tax (Systems) stating that inter-se seniority dispute between Grade-A and Grade-B recruited under 1995 Rules has to be resolved. It is seen that the dispute is still pending and it has been sent to the Ministry for relaxation of the condition so that Grade-A can be treated as Grade-B.

4. Let learned counsel for respondents is directed to take instruction whether aforesaid dispute is resolved that if so what matter.

5. List on 11.08.2014."

3. Ld. Counsel for respondents has handed over a compilation which includes the documents dated 20.10.2014, para 3 thereof reads as under:

"para 3: We also find that on 13.01.2014, the matter was referred to the Chief Commissioner of Income Tax by the Director of Income Tax (Systems) stating that inter-se-seniority dispute between Grade-A and Grade-B recruited under 1995 Rules has to be resolved. It is seen that the dispute is still pending and it has been sent to the Ministry for relaxation of the condition so that Grade-A can be treated as Grade-B."

4. Ld. Counsel for respondents submitted at the bar that the matter has been referred to the Ministry and the issue is pending before the Ministry since 2015 and no decision has been taken as yet.

5. In our considered opinion unless a decision is taken by the Ministry we are not in a position to adjudicate the issue about grant of inter-se-seniority of Grade-A & Grade-B. Accordingly, we dispose of the OA with a direction upon the Respondent No. 4 to resolve the issue as expeditiously as possible preferably within 6 months from the date of the receipt of this order and to pass an appropriate order in regard to the grievance of the applicant.

6. It is made clear that we have not gone into the merits of this case and therefore all points are kept open for appropriate consideration by the respondent authorities.

7. Accordingly, OA would stand disposed of. No order is passed as to costs.

(Dr. Nandita Chatterjee)
Member (A)

(Bidisha Banerjee)
Member (J)