

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH: HYDERABAD**

**Original Application No. 765 of 2013**

**Reserved on: 25.02.2019**

**Pronounced on: 06.03.2019**

Between:

C.V.L. Narasimha Rao, (died) per LR  
Chunduru Hima Bala,  
W/o. late Sri C.V.L. Narasimha Rao,  
Aged about 53 years, Occ: Home Maker,  
R/o. D. No. 16/134, Sri Lalitha Nilayam,  
Satyanarayanapuram, Gudivada- 521 301,  
Krishna District.

... Applicant

And

1. Union of India, Rep. by Secretary,  
Ministry of Finance, Department of Revenue,  
North Block, New Delhi.
2. The Central Board of Direct Taxes,  
Rep. by its Chairman,  
North Block, New Delhi.
3. The Chief Commissioner of Income Tax-I,  
Cadre Controlling Authority,  
10<sup>th</sup> Floor, C-Block, Income Tax Towers,  
A.C. Guards, Hyderabad – 500 004.
4. The Zonal Accounts Officer,  
Office of the Principal Chief Controller of Accounts,  
Zonal Accounts Office, Hyderabad – 500 004.

... Respondents

Counsel for the Applicant      ...      Mr. Siva  
Counsel for the Respondents      ...      Mrs.K. Rajitha, Sr. CGSC

**CORAM:**

***Hon'ble Mr. Justice R. Kantha Rao, Member (Judl)***

***Hon'ble Mr. B.V. Sudhakar, Member (Admn.)***

**ORDER**

***{As per Hon'ble Mr. B.V. Sudhakar, Member (Admn.) }***

2. The OA is filed being aggrieved over reduction of grade pay from Rs.5400 to Rs.4600.

3. The OA was originally filed in June 2013 by the applicant Sri C.V.L Narasimha Rao while working as Income Tax Inspector, Ward I, Aayakar Bhavan, Tanuku, but when the OA was pending adjudication, he passed away. Therefore, his wife who is the legal heir has been allowed to pursue the OA as an applicant vide MA 747/2013. Late Husband of the applicant joined the Income Tax Department in October 2007 as Income Tax Officer after being declared surplus consequent to the closure of the National Savings Organisation, from where he commenced his career as Inspector in April 1978. Assured Career Progression (ACP) scheme, recommended by 5<sup>th</sup> CPC, provides for granting next higher scale to an employee on completing 12 years and 24 years of service respectively, if he were not to get regular promotion in the said periods. Accordingly the deceased employee was given the next higher scale of Rs.8000-13,500 on 1.4.2002. With the advent of 6<sup>th</sup> CPC, applicant's pay was fixed in the Pay Band 2 of Rs.9300-34,800 on 24.9.2008 with grade pay of Rs.5400. While things were sailing smoothly as per norms, suddenly the grade pay was reduced from Rs.5400 to Rs.4600 on the directions of the 4<sup>th</sup> respondent in May 2010 causing a loss of Rs.3000 per month in the pay drawn. The same treatment was given to a similarly situated junior employee by the respondents but when challenged by filing OA 807 of 2009 in this Tribunal, the higher grade pay drawn hitherto was restored. Coming to know of the same, deceased employee represented on 31.12.2010, 25.2.2011 drawing the attention of the respondents to the orders of the Tribunal but of no avail. Hence the OA.

4. Applicant contends that he was not given a notice while reducing the Grade pay. Respondents have correctly fixed the pay as per 6<sup>th</sup> CPC without any ambiguity and reducing it is patently illegal. Keeping stoic silence in regard to

the representations made is itself an admission by the respondents that they have erred. Decision in OA 807 of 2009 is in his favour.

5. In response, respondents state that grade pay is fixed as per the nature of duties discharged and that the 4<sup>th</sup> respondent has accordingly fixed it as Rs 4600. The 4<sup>th</sup> respondent fixed the grade pay of Rs.4600 as per clarification received from Central Board of Taxes (Annexure R-1) and that there was no malafide intention. However, a little later, DOPT clarified vide letters dt 24.8.2011 & 7.3.2013 has clarified that for redeployed personnel, pay is protected as personal to them, irrespective of the pay scale of the post they join. Besides, action to re-fix the pay has been initiated to resolve the grievance.

6. Heard both the counsel. Perused the documents submitted.

7. Facts of the case does point out in the direction that the respondents action in reducing the pay of the deceased employee is against the Principles of Natural justice. Reduction of pay is generally a corollary to disciplinary action initiated with grave charges. An elaborate legal process is prescribed under disciplinary rules to impose any penalty of reducing pay. In the present case, it is interpretation of a rule and in such cases, respondents are not competent to withhold due pay without giving proper opportunity to the applicant to represent against the same. The rudimentary principle of issuing notice before inflicting the pain of reduction of pay was not followed. More so, when this Tribunal has made the legal position vivid in OA 807 of 2009. In fact, Applicant did represent appending the orders of this Tribunal in the cited OA to restore his original grade pay, yet there was no relief. Going further, respondents filed the reply statement in October 2013 stating that they have initiated action to restore the grade pay consequent to the clarifications received from DOPT in 2011. Ld. counsel for the applicant informs that till date the promised action has not been taken. We are in

2019, nearly 8 years have passed since the clarification has been received from DOPT. Once the position was made clear by the nodal Ministry, respondents were duty bound to act immediately. There is no whisper in the OA as to the reasons for the delay in not acting to restore the Grade pay even after receiving the clarification was back in 2011. Further, making an empty promise to act in the reply statement in 2013 and not doing is deeply disturbing to note. Action of the respondents is thus not resonating with the role of a Model employer assigned to them. Hon'ble Supreme Court has observed in Dr. Uma Agarwal Vs. State of UP, AIR 1999 SC 1212 and State of Kerala Vs. M. Padmanabhan Nair, AIR 1985 SC 356 that whenever there is delay in releasing the payments due to the employees, then in such cases interest has to be paid on the amount due. In the present case respondents are at fault and therefore payment of interest on the amount due is legitimate, in view of the legal principle laid down by the Apex Court. With the rules in favour of the deceased employee and the respondents themselves agreeing to correct the injustice done, the OA fully succeeds. Respondents are therefore directed to consider as under:

- i) To re-fix the pay of the deceased employee with grade pay of Rs.5400 from May 2010 and pay the arrears of pay as well as arrears on re-fixation of family pension due to revision of pay and other terminal benefits, within 60 days of receipt of this order.
- ii) To meet the ends of Justice, as the legally entitled amount due to the applicant was withheld by the respondents for years together, it would be fair and appropriate to pay interest at prevailing GPF rate of interest on the arrears due to be paid from May 2010 till the date of payment.
- iii) In case the respondents do not release the amount with interest as at (i) above within 30 days, the interest rate shall be hiked to 18 % per

annum and amount due with this rate of interest from date due till the date of payment be paid and in no case the payment shall be delayed beyond 3 months from the date of receipt of this order.

- iv) It is left open to the respondents to recover the interest paid from those responsible within the organisation so that a signal emerges that prompt action has to be taken when orders are clear, lest penal consequences will flow.
- v) With the above directions the OA is allowed.
- vi) No order to costs.

**(B.V. SUDHAKAR)**  
**MEMBER (ADMN.)**

**(JUSTICE R. KANTHA RAO)**  
**MEMBER (JUDL.)**

Dated, the 6<sup>th</sup> day of March, 2019

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