

CENTRAL ADMINISTRATIVE TRIBUNAL
MADRAS BENCH

Dated the Tuesday 18th day of June Two Thousand And Nineteen

PRESENT:
THE HON'BLE MR. R. RAMANUJAM, MEMBER (A)

RA. 16/2019
in
OA.1915/2016

P. Ramakrishnan,
Retd. Asst. Commissioner of Income Tax,
H-70, Sowripalayam Housing Unit,
Peelamedu, Coimbatore.Applicant

(By Advocate: M/s. S.N. Ravichandran)

Versus

1. The Union of India Rep. by
Administrative Officer,
O/o. Addl. Commissioner of Income Tax,
Range-I, Coimbatore;

2. The Zonal Accounts Officer,
O/o. the Deputy Controller of Accounts,
Ayakar Bhavan, New Block,
121, Nungambakkam High Road,
Chennai- 600 034;

3. The Commissioner of Income Tax-I,
63, Income Tax Buildings,
Race Course Road,
Coimbatore-18.Respondents

(By Advocate: Mr.M.T. Arunan)

ORDER

[Pronounced by Hon'ble Mr. R. Ramanujam, Member (A)]

This R.A. has been filed seeking a review of the order of this Tribunal dated 20.12.2018 in O.A. 1915/2016 by which the applicant was granted relief to the extent of a direction to the respondents to pay interest to him on the amount deducted from his gratuity from 13.2.2009 to 29.12.2009 at the rate at which interest was payable during the said period on GPF deposits. It is alleged that the order had been passed 'ignoring certain crucial facts that has resulted in a patent error'.

2. It is submitted that the applicant retired from service as Assistant Commissioner of Income Tax on 31.3.2007. It was on 26.10.2007 that a letter was issued to deduct alleged excess pay drawn during service from his gratuity. The applicant filed O.A. No.849/2007 which was 'allowed' by an order dated 18.11.2008 and it was directed that no recovery should have been made on the basis of mere objection from the audit department seeking some clarification.

3. The recovered amount was refunded to the applicant thereafter only on 21.12.2009, after a period of one year and one month had elapsed from the date of the order of the Tribunal. The applicant was entitled to interest on the withheld gratuity as per the Board's circular dated 29.04.2002. The order of this Tribunal in O.A. 1915/2000 allowing interest from 13.2.2009 to 29.12.2009 only instead of from 26.10.2007, the date of deduction of the

amount of Rs. 2,00,200/- from his gratuity called for a review, it is contended.

4. I have perused the grounds agitated in the RA as also the pleadings of the applicant in the O.A. The applicant had not sought interest for any specified period in the OA but only a direction to the respondents to "issue the interest of the withheld gratuity as per the order of this Hon'ble Tribunal." Clearly reference was to the order of the Tribunal in OA 849/2007 wherein the applicant had sought not only the quashment of the letter dated 26.10.2007 by which the recovery from his gratuity had been ordered but also interest on the amount so deducted. While the Tribunal set aside the impugned order dated 26.10.2007 and directed that 'no recovery need be made' from the terminal benefits of the applicant, the respondents were also granted liberty to proceed afresh in the matter, if they so chose in accordance with law after issuing a pre-decisional notice to the applicant and affording an opportunity of being heard. The order was silent on the interest payable on the amount to be refunded as a consequence thereof. If the applicant felt that the relief granted by the Tribunal in the said OA was inadequate and did not fully meet the ends of justice, he ought to have resorted to an appropriate legal remedy at the relevant time which he did not.

5. In OA. 1915/2016, he had only sought relief of 'interest' on 'withheld gratuity as per the order of the Tribunal'. As the order of the Tribunal did not include the relief of interest from the date of retirement till the date of

the impugned order dated 26.10.2007, the question of payment of interest 'as per the order of this Tribunal' would not arise. The respondents were also granted liberty to issue a pre-decisional notice and take a considered decision after hearing the applicant. Accordingly, the respondents refunded the amount deducted from the gratuity while making no changes to the pay fixation made or the pension fixed in accordance therewith.

6. In this RA, the applicant is seeking interest from the date of recovery i.e. 26.10.2007. To the extent that the period is covered by order of this Tribunal in OA. 849/2007, the relief could not have been revisited in OA 1915/2016 as a relief not granted or only partially granted to the applicant in one OA cannot be re-agitated by filing another O.A. However, this Tribunal found justification for payment of interest from the date the direction was issued by the third respondent to 2nd respondent therein to release the withheld amount by letter dated 12.2.2009 in compliance of the order of this Tribunal. As further delay beyond such date till 29.12.2009 was not found justified, interest was directed to be paid for the period from 13.2.2009 to 29.12.2009.

7. The applicant's claim for interest for the period already pleaded before the Tribunal in OA 849/2007 but not granted, by way of filing an R.A. in O.A. 1915/2016 is totally misconceived.

8. In any case, the relief sought in OA 1915/2016 was only for interest on the amount withheld 'as per the order of this Tribunal'. The applicant

seeks to travel beyond the relief sought in the OA in a Review Application which is not permissible in law. I am unable to see any glaring omission, patent mistake or grave error in the order of this Tribunal in OA 1915/2016. R.A. is devoid of merits and is dismissed in circulation. No costs.

(R. RAMANUJAM)
MEMBER (A)

Asvs.

18.06.2019