



CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No. MA 266 of 2013
OA 409 of 2013

Present: Hon'ble Ms. Bidisha Banerjee, Judicial Member

DAYAL HARI DATTA

VS

INCOME TAX APPELLATE TRIBUNAL

For the applicant : Mr.B.Mukherjee, counsel
Mr.S.Banerjee, counsel

For the respondents : Mr.S.K.Sinha, counsel
Ms.M.Bhattacharya, counsel

Order on : 26.4.16.

O R D E R

This matter is taken up in the Single Bench in terms of Appendix VIII of Rule 154 of CAT Rules of Practice, as no complicated question of law is involved, and with the consent of both sides.

2. Heard the ld. Counsels and perused the materials on record.

3. This application is directed against a revision order dated 12.11.12 issued by respondent No.5 with letter dated 4.11.12 issued by respondent No.4 and letter dated 21.8.03 issued by respondent No.6 whereby and whereunder it is alleged that the said respondents have arbitrarily deducted the pension of the applicant on some calculations in the alleged gross violations of principles of natural justice without giving an opportunity of hearing to the applicant. The applicant is a pensioner who retired on 31.3.1981 as Accountant Member, Income Tax Appellate Tribunal.

4. The respondents in their reply have indicated that the revised reduced basic pension of the applicant was Rs.33,500/- w.e.f. 1.1.06. Consequent to 6th CPC recommendations the applicant was fitted in the Pay Band of Rs. 67,000-79,000/- and as such pension of Rs.33,500/- was payable to him w.e.f. 1.1.06.

The Bank through which the pension was paid obtained an undertaking from the applicant to recover any excess payment in terms of 18.9.09 circular of RBI. It was found that the Bank made excess payment of Rs.6,26,218/- during 1.1.06 to January 2013 and therefore in conformity with the RBI circular the Bank decided to recover a monthly instalment amount of Rs.25,000/- from the pension amount w.e.f. 1.2.2013. The respondents further denied that the applicant was entitled to basic pension of RS.37,750/- per month as he had claimed.

5. Therefore the issue in the present OA is whether the applicant who was admittedly given higher pension by the Bank and was facing recovery due to an act of Bank initiated in accordance with RBI guidelines, would be entitled to any relief from this Tribunal.

6. It is noticed that the PPO that was issued by the Central Pension Accounting Office reflected the figure of Rs.33,500/- as revised basic pension w.e.f. 1.1.06. In case the Bank on its own had been paying a higher pension @ Rs.37,750/- it was not the fault of the department in giving excess amount to the applicant towards pension or making recovery. No scrap of paper has been used to show that the respondent authorities ever directed the Bank to make recovery from the payable pension of the applicant.

7. Therefore the applicant being aggrieved due to an act of the Bank on which this Tribunal does not exercise jurisdiction would have no remedy before this Tribunal against the deduction proposed by the Bank.

8. However, it would be noted that the applicant has claimed that in terms of 6th CPC recommendations his pay ought to have been fixed in the scale of Rs.75,500-80,000/- w.e.f. 1.1.06 whereas the PPO reflected the figure as Rs.67,000-79,000/- which consequently resulted in reduction in his basic pension and revised reduced pension from Rs.37,750/- to Rs.33,500/-.

This fact got corroborated by an order dated 6.5.09 issued by the Income Tax Appellate Tribunal stating that the revised pay scale of its Members would be Rs.75,500-80,000/- w.e.f. 1.1.06.

9. Such being the position it would be imperative for the Income Tax Appellate Tribunal to fix the pay scale of the applicant w.e.f. 1.1.06 in the scale of Rs.75,500-80,000/- instead of Rs.67,500-79,000/- as they have fixed.

10. Accordingly the authorities are directed to look into the grievance of the applicant appropriately and fix his pay scale and basic pension appropriately and in accordance with law w.e.f. 1.1.06.

11. In case it is observed that the basic pension has been wrongly fixed at a reduced rate due to fixation of a lower scale of pay w.e.f. 1.1.06, the revised PPO shall be issued within two months from the date of communication of the copy of this order.

12. The applicant shall be reimbursed all the recovered amount with an interest @ 8% per annum on the same from the date the recovery started within one month thereafter.

13. The OA is accordingly disposed of. No order is passed as to costs.

(BIDISHA BANERJEE)
MEMBER (J)

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