IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CWP-3895-2024
Date of Decision: 19.08.2025

Tarsem Lal, Ex. IRS

...Petitioner

Versus

Union of India and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI
HON'BLE MR. JUSTICE VIKAS SURI

Present:- Mr. Tarsem Lal-petitioner in person.

Mr. Akshay Bansal, Advocate, for
Ms. Swati Arora, Senior Panel Counsel,
for respondent Nos.1 to 3-UOI.

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HARSIMRAN SINGH SETHI, J. (ORAL)

1. In the present petition, the challenge is to the order dated 22.08.2016 (Annexure P-1) passed by the Central Administrative Tribunal, Chandigarh Bench, Chandigarh (hereinafter referred to as 'Tribunal'), by which the claim of the petitioner that he is entitled for the higher pay of the post of Additional Commissioner of Income Tax (Sr.DR) for the period i.e. starting from 03.06.2006 as he was working with the Income Tax Appellate Tribunal, Amritsar Bench (for short 'ITAT') as a departmental representative (DR), has been rejected, which is causing him prejudice.

2. Petitioner, who appears in persons, argues that once he was posted at ITAT on 03.06.2006 and was performing the duties of the departmental representatives (DR), and there does not exist any post of the Assistant Commissioner in the said ITAT, hence it has to be presumed that the petitioner was discharging the duties of the post of Additional

Commissioner for the period he remained posted there and the petitioner has to be granted the salary of the said post. The petitioner further argues that at ITAT, since no post of Assistance Commissioner existed, it has to be presumed that the petitioner was discharging the duties of the post of an Additional Commissioner while presenting the cases before the ITAT, the same has to be treated as discharging the duties of a higher post of an Additional Commissioner, which fact has been ignored by the Tribunal by declining the claim of the petitioner qua the salary of the post of Additional Commissioner. Petitioner has also placed reliance upon the sanction order dated 11/12.06.2023 (Annexure P-12) to contend that once the reimbursement amount of Shri R.L. Chhanalia, who was working as Additional Commissioner of Income Tax as well as of the petitioner, who was working as a Deputy Commissioner of Income Tax, was same i.e. Rs.24,900/- for three months while posting in ITAT, the salary of the petitioner should also have been same as being given to the Additional Commissioner of Income Tax.

3. Learned counsel appearing on behalf of the respondents submits that no responsibility of higher nature was ever entrusted upon the petitioner even while being posted at ITAT, as the petitioner’s cadre remained the same for all intents and purposes and he only argued the case as a departmental representative and non-availability of a post of Assistance Commissioner at ITAT will not *ipso facto* mean that the petitioner has to be treated as Additional Commissioner for the purpose of the grant of salary of

the post of Additional Commissioner and the order passed by the Tribunal vide order dated 22.08.2016 (Annexure P-1) is perfectly valid.

4. We have heard the petitioner as well as learned counsel appearing on behalf of the respondents and have gone through the record of the case with their able assistance.

5. The only prayer of the petitioner before this Court is that once the petitioner was working as a departmental representative before the ITAT, while working in the substantive cadre of the Assistant Commissioner and there was non-availability of the post of Assistant Commissioner, the petitioner has to be treated as discharging the duties of a higher post of Additional Commissioner so as to be granted the salary for the post of Additional Commissioner for the period the petitioner remained posted with the ITAT. The benefit of higher salary can only be granted in case the duties which were being performed by an officer is of a higher responsibility than the one envisaged of the substantive cadre being enjoyed by the said officer. Unless and until, the duties performed are different and of a higher responsibility than one required to be discharged in the substantive cadre, the benefit of higher salary cannot be given.

6. In the present case, the petitioner was working as a departmental representative in the ITAT and his case was only to submit the case(s) of the department before the ITAT. Nothing evident has come on record that the petitioner was performing the duties of a higher responsibility than the one to be performed in the substantive rank of Assistant

Commissioner. In the absence of any such material evidence brought before the Tribunal or before this Court, the benefit of higher salary cannot be granted to the petitioner.

7. Further, the argument of the petitioner by placing reliance upon the sanction order dated 11/12.06.2023 (Annexure P-12), by which certain expenditures incurred were being reimbursed to petitioner as well as to an office of the rank of Additional Commissioner of Income Tax clearly go to show that two officers, to whom the reimbursement was made, one was having substantive rank of Additional Commissioner and the second one is the petitioner working as Deputy Commissioner of Income Tax (DR) was same. For the purpose of reimbursement, both the posts have been treated as identical. This shows that there is no higher responsibility being discharged by an Additional Commissioner while working as a senior departmental representative in the ITAT as compared to a departmental representatives, which duties were being performed by the petitioner. Even the order dated 31.07.2012 appended as Annexure P-11 shows that the special allowances which have been sanctioned to the officers working in the ITAT, the same are also identical qua Additional Commissioner as well as the Commissioner of Income Tax and the Assistant Commissioner of Income Tax. The petitioner has not been able to dispute the said fact. Once, the duties being performed and the allowance being given to all were identical, irrespective of the substantive rank, the claim of the petitioner that he was discharging the duties of a higher post, cannot be accepted for the grant of salary of the

post of Additional Commissioner.

8. At this stage, the petitioner submits that irrespective of the nature of duties being performed, once the petitioner was working in the ITAT, where also the Commissioner of Income Tax rank officer as well as Additional Commissioner of Income Tax rank officer were posted, and they were also performing the same duties, the petitioner is also entitled for the salary of the post of Additional Commissioner.

9. With regard to the said argument, it is noticed that even for the grant of allowances, all the different rank officers were getting the same allowance, the claim of the petitioner that he has to be treated as Additional Commissioner while being posted at ITAT so as to grant the higher salary cannot be accepted. It is only in case the duties of a higher nature are being performed as compared to the duties to be performed in the substantive rank, the employee become entitled for a higher salary of the post he is discharging the duties, whereas in the present case, nothing has come on record to show that while performing the duties of the post of departmental representative before the ITAT, the petitioner was discharging the duties of a higher nature than the one to be performed by the Assistant Commissioner so as to claim the salary of the post of Additional Commissioner.

10. No other argument has been raised.

11. Keeping in view the totality of the facts and circumstance of this case and in the absence of any perversity being pointed out in the impugned order dated 22.08.2016 (Annexure P-1) either on the basis of the

facts or the settled principle of law, no ground is made out for any interference by this Court.

12. Accordingly, the writ petition is dismissed.

(HARSIMRAN SINGH SETHI)
JUDGE

(VIKAS SURI)
JUDGE

August 19, 2025
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Whether speaking/reasoned	Yes
Whether reportable	No