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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO.1366/2002

New Delhi this the 17th day of March, 2003.

HON'BLE SHRI JUSTICE V.S. AGGARWAL, CHAIRMAN

HON'BLE SHRI V.K. MAJOTRA, MEMBER (A)

Shri D.L. Bhatia
S/o Shri Late Shri Mohan Lal
R/o C-4, F/262, Janakpuri
New Delhi-58.

Applicant

(By Shri Yogesh Sharma, Advocate)

vs.

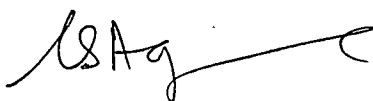
1. Union of India through the
Secretary,
Ministry of Finance
Govt. of India
New Delhi.
2. The Under Secretary
Govt. of India
Ministry of Finance
Department of Revenue
Central Board of Direct Taxes
North Block
New Delhi.
3. The Chief Commissioner of Income Tax
Delhi-2, Central Revenue Building
I.P. Estate
New Delhi. Respondents

(By Shri V.P. Uppal, Advocate)

O R D E R (ORAL)

Justice V.S. Aggarwal:-

Applicant (D.L. Bhatia) joined the department in the year 1956. He superannuated on 31.5.1993 as Income Tax Officer. Before his retirement, he had been served with a charge-sheet for major penalty. An inquiry officer had been appointed and with



respect to articles of charge No.III, IV and V, it was held that the same stood proved. The disciplinary authority accepted the same and imposed a penalty of 10% cut in his monthly pension for a period of three years.

2. By virtue of the present application, he seeks quashing of the order imposing the penalty referred to above dated 13.2.2002.

3. The application has been contested. It is denied that the disciplinary authority had conducted the enquiry without considering the representation. The matter had been considered and the report of the inquiry officer and the advice of the Union Public Service Commission had been taken note of. The specific charges had been served which stood proved.

4. After hearing the parties' learned counsel, we are of the considered opinion that present application is without any merit. The articles of charge which stood proved are:-

"Article-III. Sh.D.L.Bhatia during the same period in the course of assessment is alleged to have retained the books of accounts in his personal custody with malafide intention beyond 15 days without the administrative approval of the concerned Commissioner of Income tax and thus he is alleged to have displayed lack of integrity,

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lack of devotion to duty and exhibited a conduct which is unbecoming of a government servant within the meaning of Rule 3 (I)(i) (ii) and (iii) of CCS (Conduct) Rules, 1964.

Article-IV. Sh.D.L.Bhatia, released the books of accounts retained by him without any verification/investigation and thus he is alleged to have displayed lack of integrity, lack of devotion to duty and exhibited a conduct which is unbecoming of a government servant within the meaning of Rule 3 (I) (i), (ii) and (iii) of CCS (Con) Rules, 1964.

Article-V. Sh.D.L.Bhatia, on his transfer out of the circle, is alleged to have failed to prepare a detailed handing over note for his successor indicating discrepancies noticed by him during the course of the assessment of M/s. Mohd.Rafiq & Sons and thus he is alleged to have displayed lack of integrity, lack of devotion to duty and exhibited a conduct which is unbecoming of government servant within the meaning of Rule 3(1)(i) (ii) and (iii) of CCS (Con) Rules, 1964."

The findings of the disciplinary authority indicate that the advice of the Union Public Service Commission had been adhered to and the findings of the same read:-

"Article-III 3.5. The Commission noted that the CO retained the books of accounts of the above assessee in his custody for a period of 34 days against the maximum statutory limit of 15 days (exclusive of holidays) without obtaining the approval of the CIT u/s 13(b) of the I.T.Act. Further, he was also required to pass a specific order whenever books of accounts were required to be retained u/s 131, which was not done by him and he also did not seek the permission of the CIT.

3.6. In view of the facts involved, the Commission held the charge as proved.

Article-IV;

3.7. The Commission noted that while releasing the books of accounts, the CO

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failed to obtain any undertaking from the assessee requiring him to produce the same as and when required. He also did not issue any questionnaire to the assessee requiring him to explain the transactions, even after keeping the books of accounts for 34 days. Further, he released the books of accounts without retaining the photocopies of the relevant sheets or even without noting down the details of incriminating entries.

3.8. In view of the above the Commission concluded that the charge is proved.

Article-V:

3.9. The Commission noted that the assessment records of the above assessment for the AY 90-91 did not contain any note for the succeeding ITO except some notings in the papers, and perusal of the assessment record also does not reveal anything in specific. There is also no note for his successor or brief regarding the discrepancies, deficiencies or defects in the books of accounts of the above assessee after examining them.

3.10. The Commission concluded that in view of the above, the charge is proved against the CO."

5. The learned counsel for the applicant urged that the disciplinary authority fell into a grave error in concluding that the applicant had retained the custody of the books of accounts for 34 days exceeding the maximum limit of 15 days that had been prescribed. According to the learned counsel, the applicant was on election duty and the holidays have even been included.

6. The said argument necessarily must be held to be without merit. The applicant was on election duty for one day and even if all the Saturdays and

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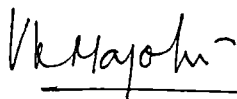
Sundays are excluded, it will be far exceeding the maximum statutory limit of 15 days for retaining the books of accounts. There are no cogent reasons forthcoming to show as to how the said finding is erroneous to prompt this Tribunal to interfere.

7. Furthermore, the books of accounts had been released without taking any undertaking requiring the assessee to produce the same as and when required; nor the applicant prepared a detailed handing over note pointing out the discrepancies. The finding in this regard, therefore, must be taken to be meritorious and calls for no interference.


8. No other argument has been raised.

9. Resultantly, the present application is devoid of any merit. It fails and is dismissed.
No costs.

Announced.


(V.K. Majotra)
Member (A)

/sns/


(V.S. Aggarwal)
Chairman