

CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA
 OA /050/00371/2018
 [MA 307 and 308 of 2018]

Date of CAV : 27.02.2020

Date of order : 28th Feb., 2020

C O R A M

Hon'ble Mr. S.N.Terdal, Member [J]
 Hon'ble Mr. Dinesh Sharma, Member[A]



Rajeev Kapoor, son of Shri P.L. Kapoor, Superintendent, Patna – II [Adjudication], Central Goods, Service Tax & Central Excise [Hq.], Office of the Central Goods, Service Tax & Central Excise, Ministry of Revenue, Government of India, Bir Chand Patel Path, Central Revenue Building, Patna – 800001 [Bihar].

..... Applicants.

By advocate: Sri M.P.Dixit.

Verses

1. The Union of India through the Secretary, [Revenue], Government of India, Ministry of Finance, Department of Revenue, New Delhi-110021.
2. The Chairman, Central Board of Excise & Customs, Ministry of Finance, Govt. of India, North Block, New Delhi – 110021.
3. The Chief Commissioner, Central Excise Goods, Service Tax & Central Excise [Ranchi Zone], Central Revenue Building, Birchand Patel Path, Patna – 800001 [Bihar].
4. The Commissioner, Central Excise Goods, Service Tax & Central Excise [Ranchi Zone], Central Revenue Building, Birchand Patel Path, Patna – 800001 [Bihar].
5. The Commissioner, Central Goods Service Tax & Central Excise Settlement Commission, Ministry of Finance, Government of India, Hotel Samrat, Chanakyapuri, New Delhi – 110021.
6. The Additional Commissioner [P&V], Central Excise Goods, Service Tax & Central Excise [Ranchi Zone], Central Revenue Building, Birchand Patel Path, Patna – 800001 [Bihar].
7. The Joint Commissioner, Central Excise Goods, Service Tax & Central Excise [Ranchi Zone], Central Revenue Building, Birchand Patel Path, Patna – 800001 [Bihar].
8. The Superintendent [Eastt.], Central Excise Goods, Service Tax & Central Excise [Ranchi Zone], Central Revenue Building, Birchand Patel Path, Patna – 800001 [Bihar].
9. Sri S.C. Das, the Assistant Commissioner [Vigilance], Central Excise Goods, Service Tax & Central Excise [Ranchi Zone], Central Revenue Building, Birchand Patel Path, Patna – 800001 [Bihar].
10. The Assistant Commissioner [Vigilance], CGST & Central Excise, Patna-II, Patna.

. Respondents.
By advocate: Sri H.P.Singh, Sr. SC with Shri Deepak Kumar.

ORDER

Per. S.N.Terdal, MEMBER [J]- Heard Shri M.P.Dixit, learned counsel for the applicant and Shri H.P.Singh, Sr. SC learned counsel for the respondents, AIIMS and Shri H.P.Singh, Id. Sr. SC with Shri Deepak Kumar, Id. counsel for the respondents, Union of India. Perused the pleadings and the documents produced by the parties.



2. The applicants have filed the instant OA seeking the following reliefs :-

“8[1] That your Lordships may graciously be pleased to declare the impugned orders dated 11.04.2018, 13.02.2018, 21.02.2018 and 01.02.2018 as contained in Annexure-A/7 series and Annexure-A/9 as null, void, ab initio wrong, punitive, contemptuous and as such the same may kindly be quashed and set aside.

8[2] That your Lordships may further be pleased to direct/command the Respondents not to disturb/harass/humiliate/coerce the applicant for such administrative wrath in future.

8[3] That your Lordships may graciously be pleased to direct/command the respondents to grant all consequential benefits for which he is legally entitled too.

8[4] Any other relief or reliefs including the cost of the proceeding may be allowed in favour of the applicant.”

3. The relevant facts of the applicant’s case are that the applicant has challenged the letters issued to him by the Vigilance Department requesting him to present himself before the Vigilance Officer along with documents concerning immovable and immovable property, detail of

bank account in his name and the name of his family members and also the details of his dependents and non-dependents family members, by the impugned letters dated 01.02.2018, 13.02.2018, 21.02.2018, 10.04.2018 and 11.04.2018 which are produced as Annexure-A/7 series and Annexure-A/9. The relevant letter dated 10.04.2018 is extracted below :-



"To
Shri Rajiv Kapoor,
Superintendent
CGST & Ex Commissionerate,
Patna-II.

Sub. : Vigilance enquiry in the matter of non-filing of Appeal against the order of Hon'ble CAT, PB, New Delhi dated 28.10.2014 in respect of Shri Rajeev Kapoor – Reg.

Please refer to this Office notice letter of even no.740, 56 and 90 dated 28.12.2017, 01.02.2018 & 13.02.2018 respectively vide which you were requested to appear before the undersigned on 09.01.2018, 12.02.2018 & 26.02.2018 respectively at 11.00 hrs [in both] at 3rd Floor, C.R. Building [Annexe], B.C. Patel Path, Patna for finding facts & collecting evidence in the matter. But you did not turn up for the same on any of the dates mentioned above.

Hence, you are, hereby, once again called upon to appear before the undersigned on 24.04.2018 at 11.00 hrs at 3rd Floor, C.R. Building [Annexe], B.C. Patel Path, Patna for finding facts and collecting evidence in the matter.

You are further requested to present yourself with following information/documents as also requested by referred letter.

- [a] Details of Immovable/movable property owned by you or your family members, individually or jointly in own name or in the name of others.*
- [b] Details of Bank Account and all other financial assets including Insurance/shares/debentures, fixed deposit etc., which has been held in your name or in the name of others, individually or jointly.*
- [c] Details of dependent/not-dependent family members.*

Assistant Commissioner [vig.]
Central GST & Central Excise
Patna –I."

4. The learned counsel for the applicant vehemently and strenuously submitted that the action of the respondents in issuing the aforesaid

letters is mala fide and victimising in nature on the ground that earlier along with 14 other employees, the applicant was proceeded with in a departmental enquiry under Rule 14 of CCS [CCA] Rules, 1965 for a major penalty. The Enquiry Officer exonerated all the 14 people along with the applicant in the said departmental enquiry but the Disciplinary Authority disagreeing with the enquiry report, imposed a penalty on the applicant.



The said penalty was upheld by the Appellate Authority. The said penalty order, and the appellate order were challenged by the applicant in OA No. 3730/2014 before the Central Administrative Tribunal, Principal Bench, New Delhi, which was allowed, vide order dated 28.10.2014. Thereafter, he was harassed regarding his posting on deputation. The writ petition filed by the respondents against the order dated 28.10.2014 before the Hon'ble High Court of Patna was dismissed on the ground of jurisdiction. The applicant got the entire relief by the Central Administrative Tribunal, Principal Bench by order dated 28.10.2014 by filing a contempt petition. Thereafter, even though the order dated 28.10.2014 was complied with, yet suppressing that fact, the respondents filed a writ petition bearing No.W.P.[C] 6216 of 2017 before the Hon'ble Delhi High Court. For having suppressed the aforesaid facts, the Hon'ble High Court of Delhi proceeded against the respondent in contempt suo motu, and in the meanwhile, the applicant was suspended for unauthorised absence. The learned counsel for the applicant further submitted that for the above orders passed by the various courts against the respondent culminated in taking ill motivated and mala fide action

by issuing the present impugned letters produced as Annexure-A/7 series and Annexure-A/9, therefore, they are required to be set aside.

5. The respondents have filed their detailed written statement, in which they have stated that there is no malafide or ill will involved in issuing the impugned letters. The various proceedings initiated against the applicant, are taken by different authorities and they were well within their power to start proceedings under law. There is no illegality or discrimination or unreasonableness in calling for the information from the applicant under the impugned letters. They have further stated that the information sought under the impugned letters is done acting in furtherance of the order dated 01.08.2017 passed by the Hon'ble High Court of Delhi directing them to take action against the defaulting officer. The relevant portion of the written statement filed by the respondents in this regard, is extracted below : -



“[i] That the contention and submission of the applicant in paragraph no.4.9 of the OA is misleading. The order for conducting Vigilance Investigation was done by the Commissioner of CGST & CX, Patna- I who joined as Commissioner on 06.06.2017. The Writ Petition No.W.P.[C] 6216/2017 was prepared and sent for filing before the Hon'ble Delhi High Court on 06.05.2017 much before the joining of the present Commissioner who ordered for Vigilance Investigation. The suo motu contempt petition proceeding has been initiated on the ground of not bringing out the fact of implementation of the order of Hon'ble CAT, PB at Delhi. The present Commissioner who ordered for initiation of investigation against Shri Rajeev Kapoor and two others and no role to play in filing of the affidavit for which contempt notice has been issued,



thus the allegation of Vengeance is nothing but a figment of imagination. There is no question of any coercion or any influence as the Applicant has no role in the decision of suo matu contempt proceeding. Therefore, Vigilance Investigation against Shri Rajeev Kapoor is well justified, well intended and within the framework of law, without any bias or prejudice. The initiation of Vigilance Investigation against Shri Rajeev Kapoor is in the interest of administration. It is necessary that probity be maintained in the office. It is also necessary that necessary discipline be maintained in the office and the officers attend the official duties. No Government servant has any right to influence the decision of any authority leading to wrong decision for one's own benefit. Further no officer is exempted from Vigilance Investigation and no officer has been granted right to not to participate in an enquiry. No officer has been granted any right to work only at one's own choice of posting and refuse to work when his frills and fancies are not made. Non-appearance and non-participation of Shri Rajeev Kapoor is delaying the compliance of the of the Hon'ble Delhi High Court order dated 01.08.2017. Non-appearance of Shri Rajeev Kapoor and non-submission of documents strengthen the belief that he has something to hide.

The submission of the applicant is completely wrong, baseless and far from the truth. He was repatriated by the Respondent No.5 on 03.05.2017 i.e. much before the contempt proceeding started by the Hon'ble Delhi High Court eve before the filing of Appeal in Hon'ble High Court.

In compliance of order dated 01.08.2017 passed by the Hon'ble High Court, vigilance enquiry get initiated in Patna-I Commissionerate and the Commissioner, CGST & CX, Patna-II was also informed by the Commissioner, CGST & CX, Patna-I about the vigilance enquiry against Shri Rajeev Kapoor and was requested to

transfer him away from headquarters to minimize the chances of his influencing the enquiry as the adjudication branch of the Patna-II Commissionerate, where Shri Rajeev Kapoor was posted, shares the same office space in the same building where the enquiry against him is being conducted. Since there were shortage of Superintendent in Purnea Division, as evident from the annexed vacancy position of Superintendent, Patna-II Commissionerate, the applicant was transferred to Purnea Division and this order was upheld by the Hon'ble Central Administrative Tribunal, Patna Bench too vide order dated 27.03.2018 [Annexure-R/13].



A Vigilance enquiry was initiated to find out the role of erring officials in order to comply with the order dated 01.08.2017 passed by the Hon'ble Delhi High Court and all these letters under challenge were issued to enquire and to find evidence of connivance by the beneficiary i.e. Shri Rajeev Kapoor, if any.

Enquiries and transfer/suspension have been done by the different Commissinerates for different reasons. Nowhere any contempt proceeding has been initiated against the Respondent s No.4, 5, 6, 7, 8 and 9. The applicant was transferred to Purnea by Respondent No.7 for administrative exigency, suspended by Respondent No.4 for unauthorized absence and letter issued by Respondent No.9 to appear before the enquiry officer. All these developments have been done for different reasons and do not have any relation with the contempt proceedings started by the Hon'ble Central Administrative Tribunal, Principal Bench or Hon'ble Delhi High Court."

6. At the time of hearing, we specifically asked the learned counsel for the applicant about provision of law or rule under which the respondents are prevented from asking the information which they have

sought under the impugned letters but in reply thereto, the learned counsel for the applicant was unable to bring to our notice any provision which prevents the respondents from seeking information, as such in view of the aforesaid there is no merit in the submissions made by the learned counsel for the applicant.

7. In view of the facts and circumstances narrated above, and also in view of the specific averments made by the respondents in their written statement as extracted above, this OA is devoid of merit. Hence the same is dismissed with no orders as to costs.



Sd/-

Sd/-

[Dinesh Sharma]/M[A]

[S.N.Terdal] /M[J]

Mps/-