

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 1368/2001

New Delhi, this the 14th day of January, 2002

Hon'ble Mr. Justice Ashok Agarwal, Chairman
Hon'ble Shri Govindan S.Tampli, Member (A)

M.R.Iqbal, IRS
S/o M.A.Baqi, posted as Assistant
Commissioner of Income Tax (TDS)
Income Tax Office, Bhopal, M.P.
R/o D-11, Koh-E-Fiza, Bhopal
Madhya Pradesh.

...Applicant

(By Advocate Shri T.S.Chauhdary,
proxy counsel for Shri B.S.Banthia)

V E R S U S

UNION OF INDIA : THROUGH

1. Secretary
Ministry of Finance
Dept. of Revenue, Govt. of India
North Block, New Delhi.
2. The Chairman,
Central Board Direct Taxes
Ministry of Finance
North Block, New Delhi.
3. Union Public Service Commission
Through the Secretary
Union Public Service Commission
Dholpur House, Shahjahan Road
New Delhi.

...Respondents

(By Advocate Shri V.P.Uppal)

O R D E R (ORAL)

By Hon'ble Shri Govindan S.Tampli,

Heard Shri T.S.Chaudhary, learned proxy
counsel for the applicant and Shri V.P.Uppal, learned
counsel for the respondents. Also perused the written
submissions filed by Shri Chaudhary.

2. Challenge in this OA is directed at the
Order No.14011/31/94 (V&L) dated 21-3-2001
communicated on 19-4-2001, imposing on the applicant a
penalty of reduction of pay by three stages till the
date of retirement i.e. 30-6-2002 with the

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stipulation that he will not earn the increments during the period of reduction and that the reduction will be with cumulative affect.

3. Applicant who was working as a Income Tax Office, Indore and transferred to Jabalpur, where he became an Assistant Commissioner of Income Tax, Indore and thereafter transferred to Jabalpur, was proceeded against for in terms of Chargesheet dated 23-9-1994, alleging irregularities in discharge of his official duties involving violation of Rule 3 (1) (i) (ii) (iii) of the CCS (Conduct) Rules, 1964. On his denying the charges, inquiry was held. In the inquiry out of 7 articles in the chargesheet all articles except IV & VII are shown as proved by the Inquiry Officer. The applicant had filed his representation against the report on 15.12.1997. However, as the respondent had delayed taking any action thereon for quite sometime, the applicant filed OA No. 949/2000, which was disposed on 21.11.2000, directing the *respondent* to pass appropriate orders in the disciplinary proceedings within three months. Thereafter, after consulting the UPSC, the disciplinary authority has passed the order dated 21.03.2001, communicated on 19.04.2001. Among the submissions made on behalf of the applicant are that the proceedings apparently had been initiated on the basis of a complaint filed by the Tax Practitioners Association, Indore, which was not a part of the charge-sheet and was not communicated to him. There has been inordinate delay in finalising the disciplinary proceedings, inspite of his having co-operated with inquiry and that only after he had

obtained an order from the Tribunal for the finalisation of the proceedings on 21.11.2000, the respondent completed the proceedings and issued the impugned order. He also states that in between he had also been promoted in 1994, which would mean that the proceeding against him had lapsed. Further, in the circumstances of the case, the penalty imposed on him was harsh and totally disproportionate to the alleged irregularities. OA should therefore succeed, pleads Sh.Choudhary.

4. Stoutly defending the respondents, Sh. V.P.Uppal, learned counsel concedes that there has been some delay in the finalisation of the proceedings but points out that the respondents had sought for and was granted time for issuing the appropriate orders. Orders have been accordingly issued. Further, the entire proceeding have been gone through correctly and the final order has been passed by the disciplinary authority after considering the IO's Report and the applicant's representation against the report and UPSC's advice. The order in the circistances cannot be faulted and the challenge to it has to be repelled, according to Sh. Uppal.

5. We have carefully considered the matter. The order under challenge is the order passed by the disciplinary authority, dated 21.03.2000 imposing penalty of reduction in applicants pay. We note that the proceedings initiated against the applicant who was originally an Income Tax Officer at Indore. Subsequently transferred to Jabalpur, covered seven articles of charge relating failure/irregularity in

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discharge of duties out of which five are found to have been proved. Though IO has referred to certain extenuating circumstances, he has held in respect of those five articles, the charge stood proved and that the applicant had not acted properly. The final order was passed by the disciplinary authority only after obtaining and examining the applicant's representation against the IO's Report and after obtaining the UPSC's advice. Perusal of the papers make it clear that the proceedings have been gone through correctly and that the applicant has been granted full opportunity to explain and defend his action, before the order was passed by the disciplinary authority. In that scenario, the respondents action cannot be faulted only on the ground that there was some delay in finalising the proceedings, especially as the Tribunal has granted time to the respondents to issue appropriate orders. Delay as the part of the respondent would not absolve the applicant from his liability from being dealt with under law for his irregularities in the discharge of his duties. The applicant also cannot take any shelter behind the fact that he was promoted int he meanwhile and argue that the promotion has washed off his misdeeds. His promotion would have come only because at the time when DPC was held, no chargesheet had been issued to him and his vigilance clearance would not have been denied, in terms of DOPT's instructions of 12.09.1992. The said promotion cannot at all in any way be treated as having nullified the validity of the proceedings initiated under the CCS (CCA) Rules, as is sought to be made out by the applicant.

6. The said proceedings have correctly and properly reached the finality by the impugned order. The same cannot be assailed in law. The same has to be endorsed. It is true that reference has been made in the final order to the complaint by Tax Practitioner Association, Indore. But the said reference is of a general nature while the advice of the UPSC as well as the order of the disciplinary authority is with specific reference to the articles of charge which are proved. The order, as stated above, stands unassailable. Further, in the circumstances of the case the penalty of reduction of pay by three stages till the date of retirement i.e. 30.06.2002, cannot be considered as unduly harsh or unconsciously high as to shock judicial conscience. The applicant's case fails on that count also.

7. In the above view of the matter, we are fully convinced that the applicant has not at all made out any case for our interference. OA, therefore, fails and is accordingly dismissed. No order on costs.

(GOVINDARAJ AMPI)
MEMBER (A)

ASHOK AGARWAL
CHAIRMAN

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