

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

(S)

O.A. NO.424 OF 2004

New Delhi, this the 12th day of March, 2004

HON'BLE SHRI R.K. UPADHYAYA, ADMINISTRATIVE MEMBER

Radhey Shiam (last employed as L.D.C. Income Tax
Office, Ghaziabad)
R/o 232/19-D, New Kot Gaon, Tejab Mills,
Ghaziabad.

.....Applicant

(By Advocate : Shri K.C.Lamba)

Versus

1. Union of India through
The Secretary to Govt. of India,
Ministry of Finance, New Delhi.
(Pin - 110001)
2. The Commissioner of Income Tax,
Ghaziabad (U.P.).
3. The Dy. Commissioner,
Income Tax (Admn.)
Ghaziabad (U.P.).

.....Respondents

O R D E R

This Original Application under Section 19 of
the Administrative Tribunals Act, 1985 has been filed
by the applicant seeking revocation of suspension
order dated 21.6.1999 and for taking him back in
service with all consequential benefits.

2. The applicant has stated that he was
employed in the Income Tax Department as Lower
Division Clerk. The applicant states that he was
falsely implicated in a criminal case as per FIR
under Section 376 read with Section 511 of Indian
Penal Code. The applicant was arrested by the Police.
It is stated by the applicant that on account of false
incidence of 8.11.1998, he was charge-sheeted by the
police on 16.2.1999. As per the details given by the
applicant, he surrendered on 16.11.1998 and was bailed

Chintamani

out on 19.11.1998 but he did not inform the respondents about his being kept under detention. He was placed under suspension on 16.2.1999. He has also been served a chargesheet by the Additional Commissioner of Income Tax on 27.12.1999. The applicant claims that he made representations on 9.4.2002 and 15.7.2002 to Commissioner of Income Tax to cancel suspension order. Allahabad Bench of this Tribunal passed an order on 20.9.2002 directing the disposal of applicant's representation dated 15.07.2002, which was rejected by the Commissioner of Income Tax by order dated 12.11.2002 on the ground that appeal against acquittal judgement was pending in the High Court, the departmental inquiry was not completed and the applicant had wilfully concealed the fact of his being detained for more than 48 hours. By another order dated 27.5.2003 in OA 1455/2002, this Tribunal directed the respondents to complete the inquiry expeditiously. On these facts, the applicant has claimed reliefs as stated earlier.

3. At the time of admission of this OA, it was pointed out to the learned counsel that relevant facts have not been incorporated in the body of the Original Application and in any case, there is no challenge to the decision of the departmental authority on request of applicant for revocation of suspension and his reinstatement. In the circumstances, the relief claimed cannot be allowed. For better appreciation of the decision by this

Contra

Tribunal, it is considered desirable to reproduce the prayer clause as contained in this OA :-

"8. Relief Sought

PRAYER

The applicant most respectfully submits revocation of suspension dated 21.6.99 and taking him back in service and be given full pay with consequential benefits for the period under suspension. From 16.2.99 upto the date of payment with adjustment of payments already made.

- b) For payment of interest on over due amounts;
- c) That costs be awarded to the applicant."

4. From the sequence of events as stated by the applicant, it is clear that the applicant had not challenged the subsequent orders relating to suspension and re-instatement. He was asked to show the papers after the order of this OA was reserved. However, the applicant has chosen to submit a supplementary affidavit dated 8.3.2004. In the opinion of this Tribunal, the disciplinary proceedings are altogether separate proceedings. The order of this Tribunal in OA No.1455/2002 related only to disciplinary proceedings against the applicant which would culminate into punishment. However, if the applicant was placed under suspension and he has raised grievance against that suspension order in this OA, he has not only to challenge the initial order of suspension but also subsequent orders passed by the Commissioner of Income Tax relating to suspension of the applicant. As a matter of fact, the Commissioner

Ch. B. Ramam

of Income Tax, Ghaziabad as per his order dated 12.11.2002 has clearly stated that there was no justification to re-instate the applicant. Unfortunately, the applicant is not claiming any relief against the subsequent orders whereas he has made a prayer for "taking him back in service" and revocation of suspension order dated 21.6.1999. Normally this OA should be dismissed in limine but interest of justice demands that the applicant should get fair opportunity of stating his case in view of the fact that the present OA is not properly made out. This OA is dismissed with liberty to the applicant to prefer fresh Original Application containing all the relevant material in accordance with law.

5. With the above observations, this OA is disposed of without any order as to costs at the admission stage itself.

R.K. Upadhyaya
(R.K. UPADHYAYA)
ADMINISTRATIVE MEMBER

/ravi/