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Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 1092 of 2000

Allahabad this the 09th day of November, 2000

Hon'ble Mr.S.K.I. Naqvi, Member (J)

R.N. Gupta, Son of Late Sri U.P. Gupta, Type V/5,
Income Tax Colony, Allahabad.

Applicant

By Advocate Shri V.K. Goel

Versus

1. Union of India through Secretary(Revenue),
Government of India, New Delhi.
2. Additional Commissioner of Income Tax, Allahabad
Range, Allahabad.
3. Commissioner of Income Tax, Allahabad.
4. Chief Commissioner of Income Tax, Lucknow.

Respondents

By Advocate Shri R.C. Joshi

ORDER (Oral)

By Hon'ble Mr.S.K.I. Naqvi, Member (J)

Shri R.N. Gupta, Deputy Commissioner,
Income Tax while holding charge at C.I.T., Allahabad,
has been transferred as Dy.C.I.T., Central Circle,
Allahabad by order dated 11.7.2000. Being aggrieved
of this order mainly on the ground that it could not

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be implemented and given effect, he has come up through this O.A., seeking relief to the effect that impugned transfer order dated 11.7.2000 be declared as has already lapsed, superseded, annulled and inoperative.

2. Brief facts of the case are that vide order dated 11.7.2000, copy of which has been annexed as annexure A-1 to the O.A., 14 Officers of the Income Tax department, have been ordered to be transferred. The name of Shri R.N. Gupta is mentioned at Item No.5 and he has been transferred from C.I.T. Allahabad to Dy.C.I.T., Central Circle, Allahabad and ^{at} item no.6 Shri S.K. Sarkar has been transferred from Central Circle, Allahabad to C.I.T., Allahabad. Likewise other officers have also been transferred to the places mentioned against their names. When preparing himself to give effect to this transfer order, Shri Gupta came to know regarding communication between Joint Commissioner Income Tax(Central), Varanasi and Shri S.K. Sarkar, according to which Shri S.K. Sarkar has been conveyed with desire of Director General, Income Tax (Investigation), Lucknow, that Shri Sarkar shall continue at his present place of posting till March, 2001 and not to hand over the charge to Shri R.N. - Gupta. The language of this letter is quite clear that the transfer of Shri Sarkar has been stayed till March, 2001 and Shri R.N. Gupta who was to take over the charge from him under this transfer order, was not to be handed over the charge by

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Shri Sarkar and, therefore, finding the order in-operative and for not having the clear instructions from the departmental authorities, the applicant has come up before the Tribunal.

3. In reply, the respondents have contested the case. First they took a stand that the applicant has already been relieved and the post held by Shri R.N. Gupta is in the charge of Shri B.K. Bhardwaj, who has taken over when Shri Gupta was taken as deemed relieved and Shri Gupta ought to have joined the post to which he has been transferred under the impugned order. It has specifically been mentioned that handing over and taking over of Shri R.N. Gupta is not related with transfer of Shri S.K. Sarkar. Subsequent to this position, the respondents have now a case that Shri Sarkar has now been directed by Joint Commissioner of Income Tax(Central), Varanasi to hand over the charge to Shri R.N.Gupta. It appears that some confusion prevailed in this regard.

4. Taking into consideration the facts and circumstances of the matter, and the arguments placed from either side, it is found that some ambiguity/confusion still remains there. As per impugned order, the applicant-R.N. Gupta was to hand over the charge under C.I.T. Allahabad and ~~Shri S.K. Sarkar~~^{Shri} was to take over the charge as

Deputy C.I.T., Central Circle, Allahabad, which post was held by Shri S.K. Sarkar. Subsequent to it, there is a communication through which a decision taken by the Director General, Income Tax, Lucknow, has been communicated, through which Shri S.K. Sarkar was to continue as such till March, 2001 and not to hand over the charge to Shri R.N. Gupta. As Subsequent developments during pendency, Shri R.K. Srivastava, Joint Commissioner, Income Tax(Central), Varanasi, has directed Shri S.K. Sarkar to hand over the charge to Shri R.N. Gupta. There is no mention that this direction is in super-session to communication dated 25.9.2000. Another ambiguity appears to have cropped up with the present position with a big question mark, as to whether a Joint Commissioner of Income Tax, could ever ride or supersede the desire of Director General, Income Tax.

5. With the above position in view, the matter has become somewhat complicated. Shri R.N. Gupta has been relieved as deemed relieved to a Join post which was/is not vacant and the incumbent to that post is communicated with the desire of Director General, Income Tax, not to hand over the charge and, therefore, it may not be possible to uphold the impugned orders.

6. For the above, the impugned transfer order, to the extent it relates to Shri R.N. Gupta-applicant, is set aside. He be permitted to join

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the post held by him under C.I.T., Allahabad with immediate effect. However, the respondents are not precluded from passing any fresh transfer order with regard to the applicant. The O.A. is disposed of accordingly. No order as to costs.

See order

Member (J)

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