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CAT/J/12

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH
~~NEW DELHI~~

O.A. No. 250

1987

~~XXXXXX~~

DATE OF DECISION 13-2-1991

Shri Krishan Kishore Khanna
_____ Petitioner

Shri M.R. Anand
_____ Advocate for the Petitioner(s)

Versus

Union of India & Ors.
_____ Respondent

Shri R.P. Bhatt
_____ Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. P.H. Trivedi : Vice Chairman

The Hon'ble Mr. R.C. Bhatt : Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. Whether it needs to be circulated to other Benches of the Tribunal?

(8)

Shri Krishan Kishore Khanna,
307, Raghukul Apartments,
Near Jain Temple,
Manjalpur, Baroda.

: Applicant

Versus

1. Union of India
Through:
The Secretary,
Ministry of Finance,
Secretariat, New Delhi.

2. Central Board of Director
Taxes, Through:
The Secretary having
his office at North
Block, Secretariat,
New Delhi.

: Respondents.

Coram : Hon'ble Mr. E.H.Trivedi : Vice Chairman

Hon'ble Mr. R.C.Bhatt : Judicial Member

ORDER

13-2-1991

Per: Hon'ble Mr. P.H.Trivedi : Vice Chairman

Heard Mr.M.R.Anand and Mr.M.R.Bhatt for Mr.R.P.Bhatt,
learned advocates for the applicant and the respondents
respectively.

This is a rather peculiar case in which the
petitioner was due for promotion to senior scale in
Income Tax Officer's cadre on 1.7.197, but that promotion
was withheld until some disciplinary proceedings, inquiry
could be completed. ^{under} Until his retirement in January, 1985
no penalty was communicated to him. In reply to our query
learned advocate for the respondents stated that after
retirement, the penalty of Censure was communicated to
the petitioner. The contentions of the learned advocate
for the petitioner briefly are that on retirement except
for withholding or reduction of retirement benefits in
some cases of ~~law~~ to Govt. or misconduct for which special
safeguards for obtaining sanctions are provided for, the
relationship of employer and employees ceases and it

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is not open to the respondents to visit him, ^{with} adverse consequences after retirement when no penalty was communicated to him prior to it. Secondly the petitioner contends that if the inquiry against the petitioner was ~~brought~~ ^{dropped} against which the respondents have ^{stated} ~~resisted~~ in their reply that as no major penalty was contemplated and there would have been only a marginal reduction of his emoluments if the inquiry has been pursued, it was decided to award the penalty of censure. Our attention ^{was} drawn to the fact that ~~of~~ Union Public Service Commission ~~having~~ recommended that the petitioner should not be awarded any punishment in this case. Nevertheless, the penalty of censure has been awarded and communicated after the retirement although inquiry was ~~dropped~~. This proceeding appears to be most irregular and curious because the penalty of censure has followed the communication of dropping of inquiry against the petitioner. We found that the petitioner's ^{contention} that he was graded as 'very good' in 1984 and his record was kept in sealed cover for consideration and that promotion was withheld from him only on the ground that proceedings were pending against him. In view of the circumstances stated above neither pendency of proceedings nor the decision to drop the inquiry together with UPSC's recommendation to drop it and the communication of censure after retirement are mutually consistent nor ^{do} they provide any adequate basis for not considering the petitioner's ^{due} arising from the promotion to which he was eligible from 1.7.1978. We cannot ^{refrain} from observing that the respondents' proceedings in this regard are ^{taunted} ~~tended~~ with ^{an element of perversity} ~~emoluments of~~ travesty apart from inconsistency stated earlier.

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The petitioner's claim for the promotion to Assistant Commissioner and resulting benefits is ^{on} a less ground, that post is a selection post and we cannot anticipate the results of the selection procedure except on the basis of the Selection Committee from the perusal of the record coming to an appropriate finding. No claim for such a promotion and relief in this regard can be considered on the basis of the contentions of the petitioner's in this regard.

In the circumstances of this case therefore it will be appropriate and adequate to direct the respondents to give the monetary benefits of the promotion to the senior scale of I.T.O. from 1.7.1978 to the date in 1983 when admittedly such promotion was given to the petitioner and subsequent adjustments in his emoluments arising from such promotion if any. We direct that the petitioner's claim regarding arrears in this regard and its benefit on his retirement dues be duly calculated and be given to him by appropriate orders by the respondent authorities within three months from the date of this order.

With the aforesaid direction to the extent stated above, we ^{find} ~~found~~ merits in this petition ^{to the extent stated.} No order as to costs.

Resul
(R.C.Bhatt)
Judicial Member

Prav
(P.H.Trivedi)
Vice Chairman