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**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK**

O. A. No. 565 of 2013
Cuttack this the 19th day of August, 2013

CORAM
HON'BLE SHRI A.K.PATNAIK, MEMBER (J)
HON'BLE SHRI R.C.MISRA, MEMBER (A)

.....

Shri Prafulla Kumar Dash, aged about 59 years, Son of Late Ambika Prasad Dash, Plot No. 204, Aadeet Residency, Kananvihar, Phase-II, Bhubaneswar, Dist. Khurda at present working as Commissioner of Income Tax, Aayakar Bhawan, Shelter Chhak, At/Po/Dist.Cuttack/Odisha.

.....Applicant

(By the Advocate(s)-M/s.J.M.Pattanaik,C.Panigrahi)

-VERSUS-

Union of India represented through

1. Secretary (Revenue), Ministry of Finance, Department of Revenue, Central Secretariat, New Delhi-110 001.
2. The Chairman Person, Central Board of Direct Taxes, Ministry of Finance, Department of Revenue, North Block, New Delhi-110 001.
3. The Member (P&V), Central Board of Direct Taxes, Ministry of Finance, Department of Revenue, North Block, New Delhi-110 001.
4. The Commissioner, Central Vigilance Commission, Satarkata Bhawan, GPO Complex, INA, New Delhi-110 023.
5. The Chief Commissioner of Income Tax, Odisha Region, Ayakara Bhawan, Rajaswa Vihar, Bhubaneswar, Dist. Khurda.

.....Respondents

(By the Advocate(s)-Ms.S.Mohapatra)

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O R D E R

(Oral)

A.K.PATNAIK, MEMBER (JUDL.):

Applicant (Shri Prafulla Kumar Dash) at present working as Commissioner of Income Tax, Cuttack) has filed this Original Application U/s.19 of the A.T. Act, 1985 inter alia stating that a charge sheet dated 3rd/4th November, 2003 (Annexure-A/1) was issued to him under Rule 14 of the CCS (CC&A) Rules, 1965 which was challenged by him in this Tribunal in OA No.09 of 2005. The said OA was disposed of by this Tribunal on 14th January, 2009. The said order of this Tribunal was challenged by the Respondent-Department before the Hon'ble High Court of Orissa in WP (C) No.19054 of 2009 and on the ^{other} hand the Respondent-Department proceeded with the enquiry into the charges communicated to the applicant vide Annexure-A/1 and the IO submitted its report on 17.6.2010. On being pointed out the fact of conclusion ^{of} enquiry by the IO, the Hon'ble High Court of Orissa vide order dated 20.3.2013 disposed of the aforesaid Writ Petition as infructuous. Thereafter, by making representation dated 22nd April, 2013 (Annexure-A/5), Applicant has prayed before the Respondent No.3 to drop the proceedings in view of the orders of

this Tribunal, Hon'ble High Court of Orissa and the report of the IO at an early date. It is case of the applicant that he is on the verge of retirement and he is in the pipe line for promotion to CCIT but for the pendency of the disciplinary proceedings he is likely to be deprived of his legitimate right for promotion, even if he is found suitable by the Selection Committee/DPC. But he has neither been communicated any reply on the disciplinary proceedings nor any reply in response to his representation which he has submitted at Annexure-A/5. Hence by filing this OA he has prayed for the following reliefs:

“(i) To hold the Disciplinary proceedings non-est in the eyes of law in view of the order of this Hon'ble Tribunal at Annexure-A/2, report of the IO at Annexure-A/3 and the order of the Hon'ble High Court of Orissa at Annexure-A/4 and accordingly direct the Respondents to pass consequential order, within a time stipulated exonerating him from the charges.

(ii) To direct the Respondents to grant the applicant all his service and financial benefits retrospectively.”

2. By way of ad interim measure, the Applicant has also prayed to direct the Respondent-Department that the pendency of the proceedings shall not stand as a bar for considering and

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promoting him consequent upon finding him fit by the DPC to the post of Chief Commissioner of Income Tax.

3. Heard Mr.J.M.Patnaik, Learned Counsel appearing for the Applicant and Ms.S.Mohapatra, Learned Additional CGSC (on whom copy of this OA has been served) appearing for the Respondent-Department. By drawing our attention to the orders of this Tribunal, Hon'ble High Court of Orissa and report of the IO Mr.Patnaik, submitted that in view of the above orders, there remains nothing further to be adjudicated upon in the Disciplinary proceedings but for the reasons of delay in passing the final order, the applicant is not only in apprehension for his debarment in promotion but also ~~has~~ ^{is} unnecessarily undergoing mental stress and strain. On the other hand, Ms.Mohapatra, vehemently opposed the maintainability of this OA on the face of the pendency of the representation. She has submitted that the applicant should not have rushed with a short time after the representation without waiting the result thereof. However, Ms.Mohapatra, expressed her inability to intimate the up-to-date status of the disciplinary proceedings or the result of the representation at Annexure-A/5.

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4. We do appreciate the contentions advanced by Ms. Moyhapatra, Learned Additional CGSC appearing for the Respondent –Department but at the same time we would like to state that it is the cardinal principle of law that Justice delayed is justice denied. It concerns the executives manning the Department that law suits be not protracted, otherwise great oppression might be done under the colour and pretence of law. Disciplinary proceedings should be expedited at the earliest possible time. There should not be inordinate delay. In order to avoid prejudice and hardship to the delinquent, the disciplinary proceedings should be completed within a reasonable time, lest it be a sword of Damocles' hanging over the head of the charged officer/official at all times. In the fact of the case we find that despite submission of report by the IO on 17.6.2010 and even after expiry of near about six months of the disposal of the Writ Petition, no order has been issued by the Respondent-Department on the disciplinary proceedings initiated against the applicant vide charge sheet dated 3rd/4th November, 2003. In view of the above, without expressing any opinion on the merit of the Disciplinary Proceedings, this OA

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is disposed of with direction to the Respondent No.3 to consider and dispose of the representation of the applicant dated 22nd April, 2013 (Annexure-A/5) [if it is reached to him] and communicate the result thereof in a well-reasoned order to the Applicant within a period of thirty days from the date of receipt of copy of this order. If, in the meanwhile any decision is taken on the disciplinary proceedings or on the representation the same may be intimated to the applicant within a period of fifteen days from the date of receipt of copy of this order. There shall be no order as to costs.

5. As prayed for by the learned Counsel for the Applicant, copy of this order along with OA be sent to Respondent Nos. 1, 2 and 3 by speed post at the cost of the Applicant; for which Mr.Patnaik, Learned Counsel for the Applicant undertakes to furnish the requisite postages by tomorrow.


(R.C.MISRA)
Member(Admn.)


(A.K.PATNAIK)
Member (Judl.)