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CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR.

Date of Order : 31/7/2001

O.A. No. 242/1999.

with

M.A. No. 147/1999.

Mangal Singh Rajoria S/o Late Shri Laxman Singh Rajoria,
Aged about 60 years, R/o Plot No. 379, Laxmi Nagar,
Jodhpur., Official address :- Ex. Assistant Commissioner
of Income Tax Department, posted at Palanpur (B.K.)
Gujarat.

APPLICANT...

VERSUS

1. Union of India, through the Secretary Govt. of India, Ministry of Finance, Department of Revenue, New Delhi.
2. Chairman, Central Board of Direct Taxes, Ministry of Finance, Department of Revenue, New Delhi.

RESPONDENTS ...

Mr. Vinod Rajoria, counsel for the applicant.
Mr. Sandeep Bhandawat, counsel for the respondents.

CORAM

Hon'ble Mr. Justice B. S. Raikote, Vice Chairman.
Hon'ble Mr. Gopal Singh, Administrative Member.

ORDER

(per Hon'ble Mr. Gopal Singh)

In this application under Section 19 of the Administrative Tribunals Act, 1985, applicant Mangal Singh Rajoria has prayed for a direction to the respondents to open the sealed cover and issue orders promoting the applicant as Deputy Commissioner of Income Tax from the date his juniors was promoted in 1994 with all consequential benefits.

2. Applicant's case is that while he was working as Income Tax Officer, a charge sheet dated 23.07.1987

Gopal Singh

was served upon him. In the DPC held in 1994 for promotion to the post of Deputy Commissioner of Income Tax, a sealed cover procedure was adopted in respect of the applicant and many of his juniors were promoted as Deputy Commissioner of Income Tax. The Disciplinary Proceedings initiated vide charge sheet dated 23.07.1987 were dropped by the Competent Authority vide order dated 07.10.1997 (Annexure A-2). The applicant retired on superannuation on 31.01.1997 as Assistant Commissioner of Income Tax. Since, the charge sheet dated 23.07.1987 was dropped, the applicant submitted a representation on 15.12.1997 (Annexure A-1) for opening the sealed cover and issuing promotion orders of the applicant, but to no avail. Hence, this application.



3. In the counter, the contentions of the applicant are denied by the respondents. It is stated by the respondents that the applicant was issued another charge sheet on 08.12.1993, and on conclusion of the departmental proceedings in respect of this charge sheet, the applicant was imposed the penalty of censure vide respondents letter dated 26.04.1996 (Annexure R-1). Thus, the applicant was facing a charge sheet when the DPC for promotion to the post of Deputy Commissioner of Income Tax met in January 1994, and further since the applicant was awarded punishment as a result of charge sheet dated 08.12.1993, the question of opening the sealed cover did not arise. It has also been pointed out by the respondents that the applicant has not approached the Tribunal with clean hands inasmuch as he has not mentioned anything about the charge sheet dated 08.12.1993 and the

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punishment of censure imposed vide letter dated 26.04.1996. In the circumstances, it has been averred by the respondents that the application is devoid of any merit and is liable to be dismissed.

4. We have heard the learned counsel for the parties and perused the records of the case carefully.

5. It is a fact that the applicant was also facing the Disciplinary Proceedings in respect of the charge sheet dated 08.12.1993, when the DPC for promotion to the post of Deputy Commissioner of Income Tax met in January 1994, besides the charge sheet dated 23.07.1987. The applicant has only referred to the charge sheet dated 23.07.1987 in his application and has contended that since all the charges included in this charge sheet dated 23.07.1987 were dropped vide respondents order dated 07.10.1997, the sealed cover of the DPC held in January 1994 should have been opened and acted upon. During arguments it was admitted by the applicant that he was served with another charge sheet dated 08.12.1993 and was imposed the penalty of censure on conclusion of the departmental proceedings in respect of the charge sheet. Since the applicant has been imposed the penalty on the basis of the charge sheet dated 08.12.1993, the question of opening the sealed cover does not arises. In this view of the matter we are firmly of the view that this application is devoid of any merit and deserves dismissal. Accordingly, we pass the order as under :-

" The OA is dismissed with no order as to costs. Since the OA has been disposed of on merits, MA No.147/1999 also stands disposed of accordingly."

Gopal Singh
(GOPAL SINGH)
Admn. Member

RAIKOTE
(JUSTICE B.S. RAIKOTE)
Vice Chairman

Received copy of judgments

Urgent
3/8/01

Part II and III destroyed
in my presence on 13/3/2001
under the supervision of
Section Officer () as per
order dated 13/3/2001

NGAN
Section Officer (Record)

Recd
13/8/2001