

1/12

## CENTRAL ADMINISTRATIVE TRIBUNAL

Original Application No. 35/2009  
JODHPUR : THIS IS THE 24<sup>th</sup> FEBRUARY, 2011.

### CORAM :

HON'BLE DR. K.B.SURESH, MEMBER [J]  
HON'BLE MR.SUDHIR KUMAR, MEMBER [A]

.....

S. P. Monga S/o Shri Madan Lal aged about 57 years, r/o Gali No. 5, Nai Abadi, I/F Gurudwara, Hanumangarh Town, last employed on the post of Office Superitnendent

**APPLICANT**

For the Applicant : Mr. J.K. Mishra, Advocate.

### VERSUS

- 1- Union of India through Secretary to the Government of India, Ministry of Finance, Department of Revenue, North Block, New Delhi.
- 2- The Chief Commissioner of Income Tax, Aayakar Bhawan, Paota 'C' Road, Jodhpur.
- 3- The Commissioner of Income Tax, Bikaner.

**RESPONDENTS**

For the Respondents : Mr. Varun Gupta, Advocate.

### ORDER

[PER DR. K.B.SURESH, MEMBER (J)]

Heard.

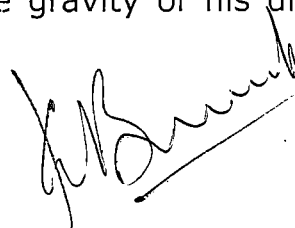
- 2- The applicant challenges his compulsory retirement which was a direct result of an inquiry finding him guilty for his absence for 945 days. The applicant would contend that he had a Heart Vessel disease, and also, along with it, he was tested as HIV positive, and also minor side effects attached to it. The complaint of the authorities seems to be that he seems to be running around to various hospitals at Jaipur and Dehi but, in between he did not find time to inform the authorities about leave. The pleadings in respect to the medical condition are ineffective and

*[Handwritten signature]*

inadequate, and no convincing ground is enunciated for us to come to a conclusion that the disease was debilitating enough for him to be absent, without even informing the respondents, for a period of 945 days. Even if we were to consider that it was clear that tri-vessel disease are often serious and the treatment methodology is un-available, even if it culminated in a bye-pass surgery, it would have required only two to three months' hospitalization at the maximum, unless, there are other serious side effects which took place. But, such is not the nature of the pleadings of the applicant. The gravity of disease cannot be deduced from any of his pleadings, nor the documents produced by him.

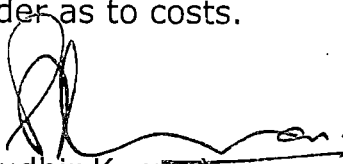
3- In any case, this Tribunal has considered this matter earlier in OA No. 229 of 2008, and vide order dated 26.11.2008, had directed disposal of his appeal, as he had prematurely approached the Tribunal. At that time also, the Tribunal had occasion to look into the inquiry, and thereafter, vide Annex. A/3 a detailed enunciation of the case after proper analysis is seen ~~to~~ <sup>have been</sup> ~~be~~ passed.

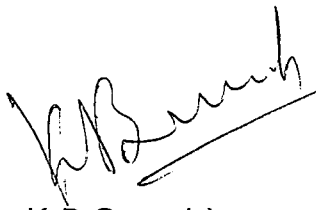
4- We had asked the learned counsel for the applicant to give one specific reason for us to assume that the applicant did not present himself in his office, nor inform the authorities, due to the gravity of his disease, either in



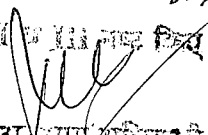
1/14

Re. his pleadings, nor in the documentation, but, he could not point-out any. It appears that all processes and procedures of domestic inquiry, which should be necessary for just Re. decision of the issue, have been initiated, and the natural justice has been accorded, Re. Thus there does not seem to be any lacunae in the order passed by the respondents. The O.A., therefore, lacks merit, it is therefore dismissed with no order as to costs.

  
(Sudhir Kumar)  
AM

  
(Dr.K.B.Suresh)  
JM

jrm

दिनांक 21/4/16 के आदेशानुसार  
प्रेसी उपस्थिति दिनांक 9/6/16  
को नम-11 में III नम दिया गए।  
  
अनुमान अधिकारी  
केन्द्रीय प्रशासनिक अधिकरण  
जोधपुर न्यायपीठ, जोधपुर