

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. No.470/2006

Thursday this the 23rd day of November, 2006

CORAM :

**HON'BLE MR.N.RAMAKRISHNAN, ADMINISTRATIVE MEMBER
HON'BLE MR.GEORGE PARACKEN, JUDICIAL MEMBER**

G.R.Pillai
Inspector of Income Tax
Office of the additional Commissioner of Income Tax
Kottayam Range, Kottayam
Permanent address :No.TC 9/1243, Lal Nivas
C.P.Gopala Panicker Road
Sasthamangalam
Trivandrum - 10 : **Applicant**

(By Advocate Mr. T.C.Govindaswamy)

Versus

1. Union of India rep. by
the Secretary to Government of India,
Ministry of Finance,
Department of Revenue, New Delhi.
2. Chief Commissioner of Income Tax,
Cochin-18.
3. The Commissioner of Income Tax (CO),
Cochin-18.
4. The Commissioner of Income Tax,
Income Tax Deptt.,
Public Library Buildings,
Sasthry Road,Kottayam-686 001.
5. Additional Commissioner of Income Tax,
Range II, Trivandrum.
6. Radhakumari.V.S,
Income Tax Officer,
O/o Dy.Commissioner of IT,
Range II, Trivandrum.
7. Elizebath Chacko,
Income Tax Officer,
O/o Dy.Commissioner of IT,
Range II, Trivandrum.



8. Indiramoni,
Income Tax Officer,
Income Tax Office, Mattancherry, Kochi.

9. Sivadasan Pillai,
Income Tax Officer,
O/o Commissioner of Income Tax,
Trivandrum. : Respondents

(By Advocate Mr. M.M.Saidu Muhammed (R1-5)

The application having been heard on 23.11.06 the Tribunal on the same day delivered the following :

ORDER

HON'BLE MR.N.RAMAKRISHNAN, ADMINISTRATIVE MEMBER

The applicant in this case is aggrieved by the departmental action taken against him and consequential denial of promotion prospects.

2. Admitted facts reveal that the applicant is working as an Inspector of Income Tax in the office of the Additional Commissioner of Income Tax, Kottayam. Vide A-2 memo dated 2.5.2003, he was asked to submit explanations in respect of his conduct vis-a-vis a businessman and acceptance of Rs.3000/. Vide A-3 representation dated 6.5.2003, the explanation was submitted. On his own, the applicant submitted an enquiry report (A-4) dated 5.5.2003. An enquiry was conducted and vide R-2 report dated 12.5.2003, the Additional Commissioner of Income Tax sent a report to the Commissioner, recommending suitable disciplinary action. There was some delay, unintentional and unavoidable, according to the respondents, in pursuing the disciplinary case, occasioned due to reasons like, internal correspondence, transfer of the applicant, availment



of leave by senior officers etc. Vide A-1, one of the impugned orders dated 20.3.2006, a memo was issued, relating to an inquiry under Rule 14 of the CCS(CCA) Rules, 1965 containing certain charges. Subsequently, on 24.3.2006, a DPC was convened for promotion to the cadre of ITO. The applicant was one of the candidates considered, but in view of the disciplinary proceedings pending, no vigilance clearance was given and the findings were kept in a sealed cover. On the basis of the select list prepared, certain promotions were effected vide A-7 and A-8 orders. According to the applicant, the delay of more than 3 years in initiating the disciplinary proceedings was prejudicial to his promotional interests. He has only about 3 ½ years more to go. He has come before this Tribunal, thus aggrieved by the late initiation of disciplinary proceedings and denial of promotion.

3. He seeks the reliefs of quashing of A-1 order and quashing of A-7 and A-8 orders, to the extent of denying the applicant the benefit of consideration of promotion. His grounds are as follows:

- i) The promotions were made against vacancies which were in existence well before 20th of March 2006, the date of issue of the charge memo (A-1).
- ii) Denial of consideration for promotion is violative of the law set by the Apex Court in Janaki Raman's case.
- iii) There is no proper explanation for the long delay of 3 years in pursuing the disciplinary action.

4. Respondents oppose the application. The delay was caused due to unavoidable circumstances. The DPC was held on 24.3.2006 for the anticipated vacancies of the next financial year. It is not correct to say that



the impugned A-1 was issued at the instance of the pressure from the unions. In respect of the charge sheet, the applicant has not exhausted all the available remedies.

5. Heard the counsel and perused the documents. The Hon. Supreme Court in 1998 4 SCC 154 observed that it is not possible to lay down any pre-determined principles applicable to all cases and in all situations where there is delay in concluding the disciplinary proceedings. Each case has to be examined on the facts and circumstances of the case. In this case, the respondents have explained the delay of about 3 years as due to the series of correspondence, seniors officers going on leave and the transfer given to the applicant etc. The period of 3 years is not unduly long. The respondents submit that an inquiry officer has already been appointed about a month back. Keeping in view of the remaining service of the petitioner, it will be in the fitness of the things, if an order is made that the same should be completed expeditiously.

6. Under these circumstances, we dispose of this application with the direction that the disciplinary proceedings should be completed expeditiously, in any case, within a period of three months from the date of receipt of a copy of this order. No costs.

Dated, the 23rd November, 2006.



GEORGE PARACKEN
JUDICIAL MEMBER



N. RAMAKRISHNAN
ADMINISTRATIVE MEMBER

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