

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA 157/2000

Wednesday this the 13th day of March, 2002.

CORAM

HON'BLE MR.G.RAMAKRISHNAN, ADMINISTRATIVE MEMBER
HON'BLE MR.K.V.SACHIDANANDAN, JUDICIAL MEMBER

V.V.Karunakaran
Inspector of Income Tax
Office of the Tax Recovery Officer
Thrissur

...Applicant

(By advocate Mr.N.P.Samuel)

Versus

1. Union of India represented by
The Chairman
Central Board of Direct Taxes
New Delhi.
2. The Chief Commissioner of Income-Tax
Central Revenue Buildings
I.S.Press Road, Kochi.
3. The Commissioner of Income-Tax
Cochin.
4. The Commissioner of Income-Tax
Tamil Nadu, IV-121, Nugambakkam
High Road, Tamil Nadu.

...Respondents

(By advocate Mr.K.R.Raj Kumar,ACGSC)

The application having been heard on 13th March, 2002, the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR.G.RAMAKRISHNAN, ADMINISTRATIVE MEMBER

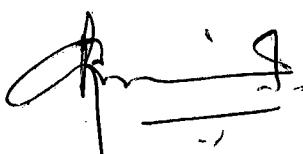
Applicant, an Inspector of Income Tax aggrieved by the rejection of his representation dated 1.12.94 wherein he had requested for interference by the second respondent on the adverse remarks in his ACRs for the years 1994-95 and 1995-96 has filed this Original Application seeking the following reliefs:

- i. To issue a direction or order to the respondents to withdraw the adverse remarks against the applicant in his confidential records for the years 1994-95 and 1995-96.
- ii. To grant such other and further reliefs as the applicant prays for and this Hon'ble Tribunal deems fit to grant in the circumstances of the case and



iii. To award the costs of the applicant in this Original Application.

2. Applicant averred in the OA that he was enlisted in the Armed Forces on 5.8.64 and continued in the Armed Forces till 19.4.72. After his discharge from the Armed Forces, he was absorbed in the Income Tax Department as U.D.Clerk on 19.4.73. On 29.12.82, he was recruited directly as Inspector of Income Tax as per the direction in O.P.No.2882/80 of the Hon'ble High Court of Kerala. He opted for a transfer to Kerala and joined the Income Tax Office, Thrissur on 10.6.91. At the time of filing this OA, he was working as Inspector of Income Tax in the office of the Tax Recovery Officer, Thrissur. Applicant claimed that due to his persistent and sincere activities in the department, he was able to detect and bring to book certain anti-social and smuggling activities and black money transactions of certain very influential persons. But instead of appreciating the devoted work of the applicant, he was subjected to harassment and victimization by the higher officers of the department. He narrated various incidents in his service career and then went on to say that in the Annual Confidential Reports for the years 1994-95 and 1995-96, adverse remarks were made against him and the same were communicated to him. He submitted his explanation in the matter within the stipulated time wherein he had repudiated the allegations against him on the basis of facts and figures. But the Reviewing Officer as well as the 2nd respondent without proper application of mind upheld the remarks holding that they did not find any reason to interfere with the judgement of the authorities below for both the years 1994-95 and 1995-96 by A-5 letter dated 17.3.99. Aggrieved he has filed this OA seeking the above reliefs.

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3. Respondents filed reply statement resisting the claim of the applicant wherein they have given remarks against each of the grievance of the applicant. They justified the impugned order issued to the applicant.

4. We heard the learned counsel for the applicant. As none was present on behalf of the respondents, we have gone through the pleadings in the reply statement.

5. Learned counsel for the applicant submitted that the applicant had a number of grievances which had not been dealt with properly by the department. He submitted a representation for considering his military service for the purpose of pension but the same was rejected on the ground that it had been received late by the respondents. His wife had undergone a tubectomy operation but he was not given the special incentive of increment for adoption of small family norms. He had taken a House Building Advance and had repaid the entire amount with interest but the reconveyance deed of the property had not been done by the respondents. The learned counsel submitted that taking into account these factors, this Tribunal may interfere in the matter and set aside the adverse remarks recorded in his ACRs.

6. We have given careful consideration to the submissions made by the learned counsel for the applicant and the rival, pleadings and have also perused the documents brought on record. The adverse remarks recorded in the ACRs of the applicant for the years 1994-95 & 1995-96 as reproduced by the applicant in the OA are as follows:

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"1994-95: The I.T.I's resume is factually incorrect so far as the information he is said to have passed on to the Deputy Commissioner of Income Tax (D.C.I.T.) regarding black money transaction of certain individual at Perinthalmanna. The Income Tax Inspector has shown insubordination by addressing a letter directly to the Director General (Inv), Madras."

1995-96: Although the official has done some good work as I.T.I. (Income Tax Inspector) attached to the T.R.O (Tax Recovery Officer) some of his activities do not supplement his good work. He has been taking unwanted interest in the Survey conducted by the I.T.O. (Income Tax Officer), Special Ward, Trichur. In fact at his behest, 3 persons filed grievance petitions to the C.B.D.T. (Central Board of Direct Taxes) against the Income Tax Officer, Special Ward for no genuine reasons. His involvement in such cases does not augur well for the smooth functioning of the Department."

7. From the reply statement, we find that the respondents had extracted the applicant's self appraisal given in column 11 of the ACR and the Reporting and Reviewing officers' remarks and justified the adverse remarks for the year 1994-95 and the decision to reject the representation of the applicant. Similarly for the the remarks for the year 1995-96 also.

8. As the learned counsel for the applicant submitted only the treatment the applicanthe had received from the department as the ground for the reliefs sought through this Tribunal and taking into account the circumstances as revealed from the pleadings in the OA and the reply statement and keeping in view the scope of judicial review in such matters of adverse remarks in Annual Confidential Reports, we are of the considered view that the applicant should be permitted to make a fresh representation to the first respondent - The Chairman, CBDT, regarding his grievance in the matter of adverse confidential reports for the period 1994-95 and 1995-96 and the latter should be directed to consider the same within a time frame.

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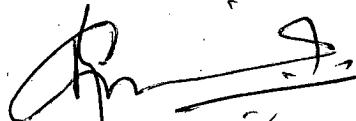
Accordingly we permit the applicant to make such a representation within one month from today and if he makes such a representation, the first respondent shall consider the same taking into account the factual aspects and other circumstances of the case and communicate the result of the consideration in the matter to the applicant within a period of three months from the date of receipt of the representation.

9. The OA stands disposed of as above with no order as to costs.

Dated 13th March, 2002.



K.V. SACHIDANANDAN
JUDICIAL MEMBER



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER

aa.

APPENDIX

Applicant's Annexures:

1. A-1 : True copy of Application submitted by the applicant to 2nd respondent - Chief Commissioner of Income Tax, Cochin.
2. A-2 : True copy of letter dated 1.12.94 submitted by applicant to 2nd respondent - Chief Commissioner of Income Tax, Cochin.
3. A-3 : True copy of Memo No.F.No.CC 250 (8)/Estt/4/96-97 dated 21.11.97 issued by Chief Commissioner of Income Tax.
4. A-4 : True copy of representation submitted by applicant to Chief Commissioner of Income Tax on 4.12.97.
5. A-5 : True copy of application submitted by the applicant to 2nd respondent - Chief Commissioner of Income Tax.
6. A-6 : True copy of representation submitted by applicant to the Director General of Income Tax, Investigation on 1.2.95.
7. A-7 : True copy of representation submitted by applicant to 3rd respondent - Commissioner of Income Tax on 2.9.95.
8. A-8 : True copy of representation submitted by applicant to 3rd respondent - Commissioner of Income Tax on 4.7.96.
9. A-9 : True copy of letter sent by applicant to the Commissioner of Income Tax, Tamil Nadu on 25.3.98.
10. A-10: True copy of application submitted by applicant to the Asst. Commissioner (Admn.), Madras on 28.8.89.

Respondents' Annexure:

1. R-1 : Copy of the letter dated 4.3.96 addressed by DCIT, Trichur Range to CIT, Cochin enclosing a copy of a letter dt. 1.3.96 of the ITO, Special Ward, Trichur.
