

Central Administrative Tribunal, Lucknow Bench, Lucknow

O.A. No. 39/2006

this the ^{21/1/06} day of January, 2006

Hon'ble Shri S.P.Arya, Member (A)

Hon'ble Shri K.B. S.Rajan, Member (J)

O.P. Sahu aged about 60 years son of late Ram Sewak r/o F-22, Liberty Colony, Sarvodaya Nagar, Lucknow working as Income Tax Officer, Jaunpur.

...Applicant

By Advocate: Shri A.Moin

Versus

1. Union of India through Secretary, Ministry of Finance, New Delhi.
2. Chairman, Central Board of Direct Taxes, New Delhi.
3. Chief Commissioner of Income Tax, Lucknow.
4. Commissioner of Income Tax, Faizabad.
5. Director of Inspection (Vigilance) East Zone, Ayakar Bhawan, Dharamtala, Calcutta.
6. Dr. A.K.Singh Jt. Commissioner, Income Tax, Indore (M.P.)

7.

..Respondents

By Advocate: Shri Deepak Shukla for Sri Prashant Kumar.

ORDER (ORAL)

By Hon'ble Shri S.P.Arya, Member (A)

The applicant by this O.A. seeks for quashing of the charged sheet dated 16.12.2005 issued by respondent NO. 4 (Annexure A1) and cost the application.

2. A departmental enquiry has been instituted against the applicant by Memo dated 16.12.2005 on the charges of failing in maintaining absolute integrity, devotion of duty and exhibiting conduct unbecoming of a Government servant.

3. The charges were for withholding the issue of refund orders and unlawfully calling for information about the assets of an assessee. The matter relates to the year 1999-2000 (A.Y. 2000-2001).

4. We have heard learned counsel for the parties and perused the records on file.

5. It was contended by the counsel for the applicant that the departmental enquiry cannot be initiated after such a long lapse of time and for the purposes he relies on **P.V. Mahadevan Vs. Md. T.N. Housing Board reported in (2005) 6 Supreme Court Cases 636** where it was held that the protracted disciplinary enquiry against a Govt. employee should be avoided not only in the interest of Govt. employee but in public interest and


also in the interest of inspiring confidence in the minds of Government employees. He has further relied on Union of India Vs. R.K. Desai reported in (1993) 2 Supreme Court Cases 49 where it was held that even if erroneous or wrong orders of refunds were passed, no disciplinary action should be taken as the official was discharging quasi-judicial function and the correct remedy in such cases lies by way of appeal or revision. On careful perusal of two judgments relied upon, it is found that the facts and circumstances of the two cases were not similar to the present. However the delay in finalization of the enquiry proceedings specially when the applicant as stated by the counsel for the applicant, is going to retire on 28.2.2006, and continuance of the enquiry for an old matter is not desirable.

6. Counsel for the respondents has argued on the other hand that the O.A. is premature in view of the law laid down by the Hon'ble Supreme Court in Union of India Vs. Ashok Kacker 1995 Supp(1) Supreme Court Cases 180. The facts and circumstances of the case were different than the present case. A charged official had not submitted reply to the charge sheet and rush to the CAT. Here, the reply to the charge sheet has been submitted. The applicant, feeling aggrieved by not finalizing the enquiry before his retirement, the retiral benefit of the applicant shall be withheld, has come to this Tribunal.

7. Upon hearing the counsel for parties and perusing the records on file and judgment cited, we are of the opinion that the respondent No. 4 should take a final decision in the disciplinary proceedings within 30 days from the date of communication of this order.

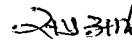
8. Accordingly, O.A. is disposed of at the admission stage with the direction to the respondent No. 4 to finalise the disciplinary proceedings within 30 days from the date of communication of this order.

No costs.



(K.B.S. Rajan)
Member (J)

HLS/-



(S.P. Arya)
Member (A)