

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH

Original Application No.518/2006

This the 22nd Day of November 2006**HON'BLE MR.A.K. SINGH, MEMBER (A).****HON'BLE MR. M. KANTHAIAH, MEMBER (J).**

Jhabbar Yadav, aged about 58 years, son of Late Shri Ram Roop Yadav, resident of Mohalla Bishunpurwa, Gandhi Nagar, Basti, (presently working as Senior Tax Assistant in the Income Tax Officer, Basti).

...Applicant.

By Advocate: Shri R.C. Singh.

Versus.

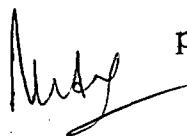
1. Union of India, through Secretary, Ministry of Finance, New Delhi.
2. Chief Commissioner of Income Tax, Lucknow.
3. Commissioner of Income Tax, Faizabad.
4. Shri O.P. Sachan, Commissioner of Income Tax, Faizabad.
5. Additional Commissioner of Income Tax, Gonda Range, District Gonda.
6. Income Tax Officer, Basti.

...Respondents.

By Advocate: None.

ORDER (Oral)**BY MR.A.K. SINGH, MEMBER (A).**

The learned counsel for applicant states that the applicant Shri Jhabbar Yadav, a Senior Tax Assistant in the Income Tax Department was transferred initially to Azamgarh in 1993 but due to certain personal problems, he could not join there. He filed a representation, which was



duly considered by the respondents and transfer order in question was cancelled in respect of change of place and instead he was transferred to Gonda in September 1994. The applicant joined the post of Senior Tax Assistant in Income Tax Office, Gonda Range, Gonda on 17.09.1994. The period of his absence due to non joining at Income Tax Office, Azamgarh i.e. 24.9.1993 to 16.09.1994 for 358 days initially could not be regularised by the supervisory authorities namely Additional Commissioner of Income Tax, Gorakhpur but on the representation to the Commissioner the same was regularised and the increments admissible to the applicant, which were due to him and which were not allowed, were allowed by the Commissioner of Income Tax, Varanasi. He was promoted as Senior Tax Assistant on 26.7.2001. While on duty, he performed well but was transferred again vide order No. 1 dated 4.7.2003 from Income Tax Office, Basti to the Income Tax Office, Bahraich. The order in question was cancelled on 18.8.2003 on his representation. On 17.10.2003 i.e. barely after 2 months after the cancellation of earlier transfer order, he was again transferred from Income Tax Office, Basti to the Tax Recovery Office, Gonda Range, Gonda. The applicant thereafter filed a representation against the aforesaid transfer order, which was not considered by the authorities. Being aggrieved by the same, the applicant filed an O.A. bearing O.A. No.1331/2003 before Allahabad Bench of the Central Administrative Tribunal. The order of aforesaid transfer was directed to be kept in abeyance by the order of the Tribunal dated 5.11.2003. A direction was also given to respondents to dispose of the representation of the applicant within 2 months. The applicant was also allowed to perform his duties at Basti and to he was to be paid his due salary and allowances etc. in terms of the aforesaid order of the Tribunal. The learned counsel further submits that authorities did not take this

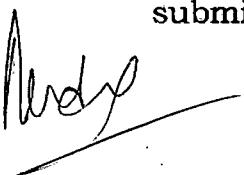


decision of the Tribunal in right spirit and starting harassing his client Shri Jhabbar Yadav by not allocating lawful duties as determined by CBDT in their Order No. A-26017/5/2003-Ad-D dated 21.2.2003. The order in question defines the schedule of the duties for various categories of Staff. The duties of Senior Tax Assistants are also specified in the order which are; implementation of all rules assigned to Senior Tax Assistant, Compilation /preparation of periodical and miscellaneous statistical statements and reports, issue to tax clearance certificates/exemption certificates/Income tax verification certificates, calculation and verification of tax, interest and penalty etc. till the list exhausted.

2. It is stated that instead of allocating the above mentioned duties in the schedule, which are the respondents have on the contrary not allowed any duties to him even though he is being paid his due salary etc. His client is feeling aggrieved that he is receiving payment without performing his lawful duties in the office. The learned counsel for the applicant prays that a direction be issued to the respondent authorities not to act arbitrarily but allocate duties to his client, which are specified in Board's Order of December 2002. *✓ 21st February 2003 MDP*

3. The learned counsel for the applicant submits that the applicant has also filed a representation before the Additional Commissioner, Income Tax, Gonda Range, Gonda but the same has not been decided till date. The counsel for the applicant submits that the authorities may be directed to decide the aforesaid representation within a specified period of time.

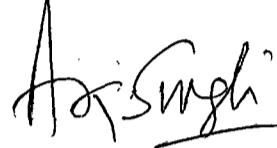
4. We have considered the submissions made by the learned counsel for the applicant Shri R.C. Singh. We find that the applicant had already submitted a representation dated 30.9.2006 to the competent authority



namely Additional Commissioner, Income Tax, Gonda Region, Gonda to
allocate duties to him as specified in the Board's Order No. ^{Notified 21.2.2003} December
2002. Accordingly, we feel that the interest of justice will be adequately
met, if the Respondent No.5 is directed to decide the aforesaid
representation as per law by speaking order within a period of one month
from the dated of communication of this order. We order accordingly.

5. The O.A. is deposed of with above manner. No order as to costs.


(M. KANTHAIAH)
22.11.06
MEMBER (J)


(A.K. SINGH)
MEMBER (A)

/amit/