

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH BANGALORE

DATED THIS THE 20TH DAY OF FEBRUARY, 1987

Present: Hon'ble Mr. Justice K.S.Puttaswamy, Vice-Chairman

Hon'ble Mr. P. Srinivasan, Member (A)

APPLICATION NO. 1970 OF 1986.

B.V.A. RAO,
II Income-tax Officer,
Circle-I, Mission Road,
Bangalore-560027.

... Applicant.

Vs

1. Chief Commissioner (Admn) &
Commissioner of Incometax,
Karnataka-I.

2. Secretary,
Central Board of Direct Taxes,
North Block, New Delhi-110001.

... Respondents.

(Shri M.S.Padmarajaiah, Advocate)

This application coming on for hearing this day
Shri P.Srinivasan, Hon'ble Member (A), made the
following.

O R D E R

The short point in this application is whether the
Chief Commissioner of Income Tax, Karnataka, Bangalore ('CCIT')
was right in rejecting the application of the applicant for
commuted leave for 81 days in terms of rule 30(I-A) of
CCS (Leave) Rules, 1972 ('Leave Rules').

2. The applicant is an Income Tax Officer, currently
working at Bangalore. He registered himself with the
Institute of Company Secretaries for undergoing the
Company Secretaryship Course run by them. He passed the
relevant examination, but before being admitted as an
Associate Member of the Institute, he had to undergo

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practical training. In order to go for training, he applied for leave. In terms of rule 30(I-A) of the Leave Rules, he requested that he be granted commuted leave on the ground that he was to utilise the leave for an approved course of study. In a letter dated 15.4.1986, the CCIT rejected his application and asked him to apply for any other kind of leave. Thereupon, he applied for half-pay leave and earned leave for the period, which was duly granted. He has completed the course and is now an Associate Member of the Institute of Company Secretaries. His grievance is against the order dated 15.4.1986 of the CCIT, rejecting his application for commuted leave, as well as the order dated 6.8.1986 of the Central Board of Direct Taxes, (the Board) rejecting his appeal against that order.

3. The applicant who appeared in person contended that the Institute of Company Secretaries is set up by the Government of India, and the course conducted by them is recognised by the Government. The Accountant General, Karnataka, had allowed commuted leave for six of his officials for undergoing the Company Secretarship Course and the Department of Industrial Development had also taken the view that it was in the public interest for an official of the Accountant General's office to qualify himself as a Company Secretary and undergo training for the purpose. According to him, the same yardstick should have been applied in his case too and he should have been allowed commuted leave.

4. Shri M. Vasudeva Rao, learned Addl. CGSC, appearing for the respondents, strongly resisted the contention of the applicant.

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5. After hearing the contentions of both sides, we are of the view that this application deserves to be dismissed. According to rule 30(I-A) of the Leave Rules, half-pay leave can be commuted where "such leave is utilised for an approved course of study certified to be in the public interest by the leave sanctioning authority". (emphasis supplied). It is, therefore, for the leave sanctioning authority to consider the question whether it was in the public interest for the official concerned to undergo a particular course of study. It being purely a discretionary matter, this Tribunal would be slow to interfere with the decision of the leave sanctioning authority unless it was arbitrary or malafide. If the decision was found to be arbitrary, we would be right in striking it down, but we cannot substitute our opinion for the opinion of the authority concerned, nor would it be relevant that any other person in the same situation may have formed a different opinion. That the Accountant General, who is the Head of another Department, was of the opinion that it was in public interest for his officers to undergo the Course in question, is also not relevant. We have seen the file on which the orders were passed where the CCIT has clearly recorded the opinion that it was not in the public interest, but purely in the private interest of the applicant to undergo the course in question. We cannot say that this was an arbitrary decision. There is no doubt that qualifying in the Company Secretaries Examination primarily benefits the particular official in question. If the CCIT took the view that the public interest would not be advanced, which is a possible view that can be taken, we would not be right in

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