

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH, "GULESTAN" PRESCOT ROAD,  
BOMBAY-1

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OA No. 685/91

Krishna Digambar Deshpande  
12 Pushkaraj Society  
Bhabha Nagar; Nashik 422001  
Last employed as Inspector of  
Income Tax in the office of the  
Commissioner of Income-tax,  
Nashik

..Applicant

V/s.

1. Commissioner of Income-tax  
Kendriya Rajaswa Bhavan  
Bombay Agra Road; Nashik

2. Chief Commissioner of  
Income tax, Connaught Road  
Pune-1

..Respondents

Coram: Hon.Shri Justice S K Dhaon, V.C.  
Hon.Shri M Y Priolkar, Member(A)

Appearance;

Mr. M.A. Mahalle  
Counsel  
for the applicant

Mr. P M Pradhan  
Counsel  
for the respondents

JUDGMENT:  
(PER: S.K. Dhaon, Vice Chairman)

DATED: 17/8/92

On or before 11th October 1989 the  
applicant was working as an Inspector of Income Tax  
at Nashik. On that day an order purporting to be  
have been under sub-rule (1) of Rule 10 of the  
Central Civil Services (Classification, Control  
and Appeal) Rules 1965 (herein after referred to  
as, the Rules) was passed by the Commissioner of

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Income Tax placing the applicant under suspension.

On 12<sup>th</sup> October 1989, a memorandum containing the charges was issued by the Commissioner. Thus the disciplinary proceedings commenced. On 22.3.91 the Chief Commissioner of Income Tax dismissed the appeal of the applicant wherein he had challenged the legality of the <sup>order of</sup> suspension. The order passed by the Commissioner of Income Tax and the Chief Commissioner of Income Tax are being impugned in the present application.

2. The main charge against the applicant is that he is in possession of disproportionate assets to the tune of Rs. 3.64 lakhs and odd. It is to be noted that the applicant joined the Income Tax Department in the year 1961 as a Lower Division Clerk. Since 1985, he had been working as an Inspector.

3. The Chief Commissioner of Income Tax dismissed the appeal preferred by the applicant on the ground that the same was hopelessly barred by time. He refrained from entering into the merits of the case as to whether the assets held by the applicant were disproportionate to his income. He, however, recorded the finding that the order of suspension had been passed after giving an opportunity to the applicant to explain the sources of his assets.

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4. A reply has been filed on behalf of the respondents. In it, the material averments are these. On 22nd October 1990, the Commissioner of Income Tax reviewed the case of the applicant and decided that there was no scope for revocation of suspension at that stage. Thereafter, the order of suspension was reviewed from time to time, but the officer declined to revoke the same.

5. Very rightly, it has not been contended on behalf of the applicant that the order of suspension could not be passed under sub-rule(1) of Rule (10). As the charge against the applicant is of possession of disproportionate assets, the order of suspension is consistent with the instructions issued by the Government of India. Sub-rule (5) of Rule 10 postulates inter-alia that the order of suspension shall continue to remain in force until it is modified or revoked by the authority competent to do so. Therefore, we find no substance in the contention advanced on behalf of the applicant that, under the facts and circumstances of the instant case, the order of suspension should be deemed to have been revoked. The order of suspension shall be deemed to continue unless the same is revoked.

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So long as the disciplinary proceedings are continuing, the order of suspension shall continue to last until an express order of revocation is passed under sub-rule (5) of Rule 10. There is also no force in the contention that the order of suspension shall stand automatically revoked after the expiry of a period of six months. The only requirement under the instructions is that the said order should be reviewed from time to time. That, as stated by the respondents in their reply, has been done. Even if the order of suspension was not reviewed from time to time, or not reviewed even once, the theory of automatic revocation will have no application. This is so as the statute clearly provides that there has to be an order of revocation. See DIRECTOR GENERAL AND INSPECTOR GENERAL OF POLICE, ANDHRA PRADESH, HYDERABAD & ORS. V. K.RATNAGIRI, AIR 1990 SC 1423.

6. The other contention advanced is that, in any view of the matter, we should now set aside the order of suspension as the respondents have not acted in accordance with the instructions of the Government of India in so far as they have not considered the question as to whether it will be in the public interest to allow the applicant to work as an Inspector at some place outside Nashik.

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7. It is to be noted that in the body of this application no averment whatsoever has been made that the question of transferring the applicant from Nashik, after revoking the order of suspension, has not been considered by the competent authority. In the absence of any such averment, the respondents could not be required to assert that such a question was considered by the authority concerned. However, in the grounds taken in support of this application it is stated that the feasibility of revoking the order of suspension and there after transferring the applicant outside Nashik was not considered at any stage. Be that as it may, every order of suspension should not be set aside on the mere ground that the authority concerned did not apply its mind to the aforesaid question. The applicant is holding a vulnerable post of an Inspector of Income Tax. The charge leveled against him is of a serious nature. It may not be in the public interest to allow him to act as an Inspector of Income Tax even elsewhere so long as he is not cleared of the charges. We are, therefore, of the opinion that, under the facts and circumstances of the instant case, we should not interfere with the

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
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order of suspension even if it is held that the question of transferring the applicant outside Nashik has not been considered by the Commissioner of Income Tax.

8. The disciplinary proceedings should have culminated either way by now. There is nothing on record to show as to what is the stage of the proceedings. There is also nothing on record to show as to what is the impediment in the way of disciplinary authority in passing a final order. We, therefore, direct the disciplinary authority to pass a final order in the disciplinary proceedings as expeditiously as possible not beyond a period of six months from the date of production of a certified copy of this order by the applicant. Ofcourse, this direction can be carried out only if the applicant ~~co~~operate in the disciplinary proceedings. If he does not do so, it will be open to the disciplinary authority to take its own time.
9. With these directions this application is disposed of finally.

There shall be no order as to costs.

  
( M Y Priolkar )  
Member (A)

  
( S K Dhaon )  
Vice Chairman

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH, 'GULESTAN' BUILDING NO.6  
PRESCOT ROAD, BOMBAY-1

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REVIEW PETITION NO. 199/92

IN OA NO. 685/91

Krishna Digambar Deshpande

Applicant

V/s

Commissioner of Income Tax

Nashik & Another

Respondents

Coram: Hon.Shri Justice S K Dhaon, Vice Chairman

Hon.Shri M Y Priolkar, Member(A)

TRIBUNALS ORDER:

DATED: 11.12.92

(PER: S K Dhaon, Vice Chairman)

The order dated 17.8.92 passed by us is sought to be reviewed by means of this application.

2. The order dated 11.10.89 whereby the applicant has been suspended from service was the subject matter of challenge in OA No.685/91 which has given rise to this application. We passed a detailed order giving reasons as to why we did not consider it necessary to quash the order of suspension. However, we had directed that the departmental proceedings should be put to a close within a specified period. If our direction has not been carried out, the remedy available to the applicant is not a review application.

3. We do not find any error, much less error on the face of the record, so as to entitle the applicant to get our order reviewed.

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4. We are disposing of this application by adopting the process of circulation which is permissible under the rules.

5. The application is rejected.



( M Y Priolkar )

Member(A)



( S K Dhaon )

Vice Chairman