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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT : HYDERABAD

O.A.No. 117 of 1989

Date of Order: 20.7.90

Between:-

*M.V.Saibaba

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Applicant

and

1. Commissioner of Income-Tax
Andhra Pradesh-III, 7th Floor,
Aayakar Bhavan, Basheerbagh,
Hyderabad-4.

2. Chief Commissioner of Income-Tax,
8th Floor, Ayakar Bhavan,
Hyderabad-4.

..

Respondents

Appearance:

For the Applicant : Shri K.V.S.Bhaskar Rao, Advocate.

For the Respondents : Shri Naram Bhaskara Rao,
Addl. CGSC.

CORAM:

THE HONOURABLE SHRI J.NARASIMHA MURTHY, MEMBER (JUDICIAL).

and

THE HONOURABLE SHRI R. BALA SUBRAHMANYAN, MEMBER (Admn.),

(JUDGEMENT OF THE BENCH DELIVERED BY HON'BLE SHRI J.NARASIMHA
MURTHY, MEMBER (JUDICIAL)).

1. This is an application filed by the applicant seeking relief to set aside the Appellate Order dated 30-9-1988 issued by the 2nd respondent and declare that the order of the 1st respondent made in Order No.Confdl.No.96/86, dt.29.4.1988 as illegal, arbitrary, haste and unjust and set aside the said order.

2. The contents of the application are as follows:-

The applicant was appointed as Inspector in Income Tax Department of Andhra Pradesh by direct recruitment with effect

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from 3-4-1979. He worked in the office of the Commissioner of Income Tax from 3-4-1979 to August 1979 at Hyderabad. From September 1979 to May 1984, he worked at Tirupathi. He was transferred to the Tax Recovery Office, Nellore, in June 1984 and he had been working as such since then. He got good record and reputation. His work was remarked as outstanding during 1984-85. The Tax Recovery Officer, Nellore, developed some prejudice against the applicant. He wanted to punish the applicant on some pretext or the other. He harassed the applicant by issuing series of memos to the applicant. He also made a false complaint against the applicant stating that he tried to assault him on 8-8-1986 at about 5.30 p.m.. He gave a police complaint to that effect. A copy of the Police complaint was sent to the Commissioner of Income Tax, A.P.III. The Commissioner of Income Tax proposed to hold an enquiry and gave a memo to the applicant to that effect and charges were framed against the applicant. The Commissioner of Income Tax, Madras, was appointed as Enquiry Officer. He filed his report on 29-1-1988. The Commissioner of Income Tax, A.P.-III, revoked the order of suspension on 29-4-1988. He imposed the penalty of reduction from the post of Inspector to the Supervisor, Gr.II for a period of 3 years on the applicant. The applicant has to earn good confidential reports within 3 years to regain his original post. He filed appeal against the said order to the Chief Commissioner, Income Tax, A.P., which was rejected on 30-9-1988. The applicant has filed this application against the Order dated 29-4-1988 of the Commissioner of Income Tax, A.P., Hyderabad.

3. The respondents filed a counter with the following contentions:-

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It is not correct to say that the Tax Recovery Officer made a false complaint to the Station House Officer, Nellore, to the effect that the applicant tried to assault him on 8-8-1986 at 5.55 p.m. The charge of the applicant's assault was proved as correct. In the enquiry proceedings as evidenced by the statements obtained from the witnesses. It is not true that the complainant withdrew his complaint made to the Police on 8-8-1986. It is also not true to say that the enquiry report is vitiated and the Enquiry Officer and the Disciplinary Authority ignored the conspicuous variations in the statements given by the witnesses. It is clear that the witnesses changed their statements in the cross-examination only to help the applicant. It is also not correct to say that the statements were obtained from the Doctor by post. The Doctor has stated before the Enquiry Officer that the applicant is not the person whom he treated on 8-8-1986. Somebody else giving the name of Mr.M.V.Saibaba (Applicant herein) took the ^{certificates} statement from the Doctor. The charge of assault was proved in the enquiry. It is not true to say that the statements were recorded from the 3 ^{two} ~~eye~~ witnesses to the incident under threat and by force. It is not correct to say that the complainant was not examined by the Enquiry Officer and the Enquiry Officer's report itself is vitiated. The officials have not listed the complainant as witness on his behalf. The applicant is not correct in alleging that fresh and extraneous material was inducted into the enquiry report as alleged by him under para 6(d)(2) of this application. It is not correct to say that the statement of witnesses and the incredible evidence given by the Doctor have not been properly appreciated by the disciplinary authority. The Doctor did not give the statement under duress. The eye witnesses



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slightly varied their statements at the time of cross-examination only to help the applicant. The statement was not obtained from the Doctor under duress as contended by the applicant. The Disciplinary Authority and the Appellate Authority have properly applied their mind to the facts of the case and disposed of the applicant's case.

In view of the above facts it is stated that the Appellate Order dated 30--9--1988 was passed after taking into consideration all the aspects and the nature of the offence committed by the applicant. The respondents therefore prayed that the Tribunal may be pleased to dismiss the above application in the interests of justice.

Heard Sri K.V.S. Bhaskar Rao, learned counsel for the Applicant and Sri N. Bhaskara Rao, learned Standing Counsel for Income-Tax Department, the respondents herein.

The admitted facts in the case are as follows:

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Sri Suryanarayana, the Tax Recovery Officer, and Sri Saibaba, the Inspector of Income-tax ^{who} was working under the T.R.O. Both are working at Nellore. They were residing in Komala Lodge in one room. Both are said to be good friends and Sri Sai Baba the Inspector used to take Sri Suryanarayana, the T.R.O., on his scooter every day to the office. They are very good friends to the knowledge of their Subordinates.

The witnesses that were examined in the Enquiry are Sri K.Venkateswarulu, Head Clerk, Yanadayya and Ramayya are Group "D" Employees working in the Income Tax Department.

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On 8--8--1986 at 5--55P.M., the Applicant Sri Sai Baba was said to have making rounds on his scooter in the Income-Tax Office premises at Nellur and attempting to assault Sri Suryanarayana, the T.R.O., by dashing against him with his scooter. At that time, "A" Ward Income-Tax Officer, Nellur was hearing a case in his Chamber. Advocates and the Accounts Officer also were present at that time in the chamber of the Income-tax Officer, "A" Ward. At that time Sri Suryanarayana, T.R.O., rushed into the room of the Income-tax Officer, "A" Ward sweating. The "A" Ward Income-tax Officer asked the Advocates and the Accounts Officer to go away and asked the T.R.O., as to what had happened. The T.R.O., narrated the facts to him. Then both of them ~~xxxx~~ ~~xxxxxxxxxx~~ ^{discussed} the matter. After discussion, the Income-tax Officer "A" Ward advised the T.R.O., to give a Police Complaint. The T.R.O., gave a Police Complaint against the Applicant. On the same evening the T.R.O., started for Hyderabad to inform the same incident to the Commissioner of Income-tax, Andhra Pradesh III. On 11--8--1986 he gave a written complaint to the Commissioner of Income-tax, Andhra Pradesh III. On that an Enquiry Officer was appointed and the Enquiry Officer conducted an enquiry into the incident.

In the Police complaint the applicant did not mention anything about the Memos issued by the T.R.O., to the Applicant. But in the report given to the Income-tax Commissioner, Andhra Pradesh III, he mentioned ~~xxx~~ about the Memos issued by the T.R.O., to the applicant calling for his explanation. Sri Sai Baba gave explanations to those Memos.

The Memos given by the T.R.O., to the Applicant were mentioned in the Complaint given to the Commissioner of Income-tax, Andhra Pradesh III to show that the applicant

has a grouse against the T.R.O., for issuing the Memos to him. To establish the enmity between the Applicant and the T.R.O., he mentioned the Memos given by him to the applicant for his negligence in discharging the duties. The fact of mentioning about the Memos in the complaint is only to establish the motive to the applicant to cause assault to the T.R.O., but nothing else. Here in this case those Memos were made the basis for framing Charge No.1 against the applicant. They themselves cannot constitute a charge in the attempt to assault the T.R.O. If any action is to be taken on those Memos a separate charge for each Memo showing the particulars of latches on the part of the applicant. But instead of that the Inquiry Officer basing on the list of Memos framed a charge against the applicant with regard to all the Memos which is not proper.

There are four charges against the applicant. The first charge is about the Memos. The Enquiry Officer stated that it is partly proved. How they are proved, the Enquiry Officer could not give proper reasoning. These are the Memos given by the T.R.O., to the petitioner. The petitioner gave his explanation for all the Memos denying his guilt. To prove the allegations mentioned in the Memos, neither the Complainant (T.R.O) nor anybody to speak those facts was examined. In the absence of the evidence of the very complainant which is a serious lacuna, it cannot be held that the charge is proved. The T.R.O. must give his evidence and give an opportunity to cross-examine him on those aspects but conveniently the T.R.O., avoided to face the cross-examination for the reasons best known to him. This aspect was not considered by the Inquiry Officer. Without examining the material witness who gave Memos to the Applicant, it cannot be said that the charge was proved.

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In the Police complaint he did not mention about the Memos given by him to the Applicant. But after consulting with the other Departmental Officers, he mentioned the various Memos given to the petitioner by the T.R.O., to make a strong case against the applicant. So he did not show any interest in the criminal complaint given to the Police on 8--8--1986. He not only withdrew himself from the criminal complaint given to the police but also avoided to face the cross-examination by not examining himself in the Inquiry. Moreover, the petitioner stated in his petition that out of eleven Memos cited in this Article, five more Memos are extraneous which are not originally part of the Memorandum of articles were brought into Article 1. Two Memos out of the five extraneous Memos were held proved in the inquiry report. If the T.R.O., was examined in the Inquiry, the truth or otherwise about the extraneous Memos would have come out. But conveniently in order to avoid cross-examination, the T.R.O., avoided to face the inquiry. In these circumstances, it cannot be said that the 1st charge is proved.

The second charge is in regard to the attempt to assault the T.R.O., by the Applicant.

To prove the charge the respondents examined three witnesses styling them as eye witnesses. Sri K. Venkateswarlu is the Head Clerk of the Office. He gave varied versions. The statements of the eye witnesses were recorded by the Income-tax Officer "A" Ward on 11--8--1986 in his office. All their statements were put to the witnesses at the time of enquiry whether they are correct. They admitted their correctness. In his evidence Sri Venkateswarlu was put a question in his cross-examination as follows:

"In your letter dated 11--8--1986 you have stated that Sri Saibaba was following the T.R.O., on a Scooter. Later you stated that Saibaba chased the T.R.O., on his scooter. Which of the two versions is correct?

Ans: Following on the Scooter is correct.

The witness further stated that the T.R.O., and the petitioner are friends. Petitioner used to pick up the

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T.R.O., on his scooter to the Office. He also stated that he could not imagin that the said Saibaba would be causing any harm to the T.R.O. He also stated answering the question put by the Inquiry Officer that at that time I did not see Saibaba in a mood of attacking the Tax Recovery Officer on his scooter.

Yanadayya, Group "D" Official stated that the ~~Income~~ Tax Officer, "A" Ward asked him to give a statement about the incident that took place on 8-8-1986. Then he gave the statement on 11--8--1986. While he was giving the statement, a Clerk recorded his statement.

He stated in his evidence that he has not seen ~~xxx~~ Sri Saibaba in a mood of attacking the T.R.O.

Ramayya another Group "D" Official was examined. He stated that his statement was recorded by the I.T.O., "A" Ward, Nellur on 11--8--1986.

Admittedly, the I.T.O. "A" Ward was hearing a case in his Chamber at ~~the~~ time of the alleged attempt to assault the T.R.O. Advocates and the Accounts Officer were also present in his Chamber. At that time, the T.R.O., is said to have rushed into his office. Then the I.T.O., asked the Advocates and ~~the~~ Accounts Officer to go away from that Room and talked to the T.R.O. At that time ~~the~~ Office was functioning and a number of people were present. The Advocates and the Accounts Officer were there with the I.T.O., In such circumstances, how can a subordinate of T.R.O., try to assault him by dashing against him with his scooter in the office premises in the broad day light in the presence of so many people? The respondents only cited their subordinates as witnesses to speak about the alleged attempt to assault the T.R.O., but none else. ~~It is an inquiry~~

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The Enquiry Officer has not considered the evidence of the witnesses ^{properly}. He only perused the statements recorded by the Income-tax Officer "A" Ward from the witnesses who were working under him. He simply accepted the evidence which is favourable to the Department ignoring the evidence favourable to the Applicant. Moreover the petitioner stated that he was not present at the time of the alleged incident at the Income-tax Office. He applied for leave on that day and went to the Hospital for treatment for his ailment. He was in the Hospital from 3-00P.M., to 10-00P.M. on 8-8-1986. Two bottles of Saline was injected into his body by the Doctor during that period. He produced Doctor's Certificate to that effect. In view of the defence taken by the petitioner, his presence at the scene of offence is not ^{true} ~~xxxxxx~~. It is supported by the Doctor's Certificate.

There are no independent witnesses in this case. All are Departmental people working under the Income-tax Officers ^{at} ~~of~~ Nellur. They gave more than one version in their evidence. The valid presumption is to disbelieve both the versions. The witnesses are under the influence of the Officers and if they fail to support the T.R.O., they have to face many trouble in their hands. No independent witness was examined. Though one Srinivasulu was present according to the ~~xxxxxx xxxxxxxx xxx~~ T.R.O., he was not examined and his statement was also not recorded by the I.T.K. "A" Ward along with the other witnesses.

The T.R.O., and I.T.O. "A" Ward, Nellur discussed about the alleged assault and on the advice of the Income-tax Officer "A" Ward, a complaint petition was given to the Police and on his advice the T.R.O., proceeded to Hyderabad to inform about the alleged incident of assault to the Commissioner of Income-Tax, Andhra Pradesh -III. The I.T.O., "A" Ward recorded the statements of the alleged eye witnesses with regard to the alleged assault. The I.T.O.,

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"A" Ward played an important role in this case and he was also not examined as a witness before the Enquiry Officer. There were also ^{twenty} other officers at the scene of offence ^{Head Clerk and} but none of them were examined. Only the/Class IV employees were examined, who are subordinate officials. The Very Officer to whom the T.R.O., complained about the incident in the first instance while he was hearing a case in his chamber was not examined. The very complainant i.e., the T.R.O., was also not examined before the Enquiry Officer to establish the truth of the offence. When a criminal act was said to have done by the petitioner against the T.R.O., the complainant who made the complaint to the Police and the Department is a material witness to to prove that the petitioner tried to assault him in the broad day light in the office premises in the presence of number of people while the office was functioning. Merely setting up some Group "D" officials working under the Departmental Officers to speak something about the alleged offence is not enough to prove the guilt of the petitioner. The evidence of the employees who are the witnesses in the case is ⁱⁿ consistent. The Enquiry Officer took the evidence which is favourable to the Department and simply ignored the evidence which is in favour of the Applicant. The Doctor's evidence is that Sri Sai Baba was under his treatment from 3--00P.M., to 10-00P.M., on 8-8-1986 was totally ignored. He did not discuss the evidence given by the Doctor at all. He simply believed the version given by the Doctor regarding the identity of the person and he did not take into consideration ^{the} ~~xx~~ ~~xxxx~~/circumstances that led him to give such evidence. The Enquiry Officer awefully failed to appreciate the evidence. So we hold that ~~xxx~~ ~~xxx~~ Charge No.2 is also not proved.



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The 3rd charge is that the petitioner tried to fabricate evidence to cover his misconduct by way of Medical certificate that he was under medical treatment from 8-8-1986 to 11-8-1986 and thereby failed to maintain absolute integrity and exhibited conduct unbecoming of a Government servant thereby violated Rule 3(1)(i) and (ii) of C.C.S. (Conduct) Rules, 1964.

The Doctor Y. Subrahmanyam gave his evidence that he treated Sri Saibaba, the Income-tax Inspector, Nellur for Bacillary Dysentery from 8-8-1986 to 11-8-1986. On 8-8-1986 he was in his nursing home from 3-00P.M. to 10-00P.M. on 8-8-1986. He gave two bottles of Dextrom Saline and one ampule of Multibinta and charged Rs. 75/- from him. He gave certificate to that effect to Sri Saibaba, Income-tax Inspector. He also gave fitness certificate.

He gave statement also to that effect before the Inspecting Assistant Commissioner of Income-tax Nellur on 6-11-1986. He also stated that Sri Saibaba was under his treatment from 3-00P.M. to 10-00P.M. on 8.8.86. The same was admitted by the Doctor before the Inquiry Officer also. But the Doctor stated that the person shown to him before the Inspecting Assistant Commissioner of Income-tax as well as the Enquiry Officer is not the person that took the certificate from him and is not the person that he treated and he is a different person.

To appreciate this part of his evidence i.e., the person shown to him is not the person to whom he gave certificates and whom he treated, we have to examine the background and under what circumstances he made the statement that the person shown to him is not the person to whom he issued the Medical Certificate and fitness certificate

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and he is a different person.

The Doctor treated the patient Sri Saibaba, the Income-Tax Inspector on 8--8--1986 from 3-00P.M. to 10-00P.M. A criminal complaint was given by T.R.O., on 8--8--1986 to the Police against Sri Saibaba, the Income-tax Inspector alleging that he attempted to assault T.R.O. on 8--8--1986 in the income-tax office premises at Nellur. According to the petitioner it is sheer invention made against him and he was under the treatment of Dr. Y. Subrahmanyam in his nursing home on 8--8--1986 from 3--00P.M. to 10-00P.M. The alleged attempt to assault the T.R.O., is a concoction. The filed the his explanation on 30--10--1986.

Then the Incometax Department began threatening the Doctor after they come to know the fact of his issuing the Medical Certificate and Fitness certificate and the treatment to the petitioner after the applicant filed his written statement. One Mr. Sharma, Income-tax Inspector visited the house of the Dr. Y. Subrahmanyam and inquired about his income particulars and at the same time he conveyed the message orally that the Inspecting Assistant Commissioner wanted to examine him. Then he appeared before the Inspecting Assistant Commissioner of Income-tax at Nellur.

The Inspecting Assistant Commissioner of Incometax recorded the sworn statement of the Doctor on 6-11--1986. *behind the back of the petitioner.* By the date of recording his statement, the Doctor was given an impression that the Income-tax Officers were going to give him some trouble in regard to his income-tax matters, if he fail to oblige them in the inquiry against Sri Saibaba, the Income-tax Inspector. The Doctor was put under threat and fear and recorded his statement

by the Inspecting Assistant Commissioner, Income-tax. The way in which the statement was recorded is quite evident from the questions that were put to the Doctor at the time of recording his sworn statement.

Q.1. Mr. Subrahmanyam You have given a Medical Certificate saying that our Tax Recovery Inspector Mr. M.V.Saibaba was under your treatment on 8--8--1986 from 3--00P.M. to 10--00P.M. Is it correct?

Ans: Yes. He was under my treatment from 3-00P.M. to 10--00P.M. on 8--8--1986.

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I.A. Mr. Subrahmanaym - I would like to point out that you are on oath.

Ans: Yes.

Q.2. Mr. M.V.Saibaba, our Tax Recovery Inspector was seen in the Office premises at 5-30P.M. by more than 20 Income Tax Officials on that day whereas you are stating that he was under your care from 3--00P.M. to 10--00P.M. Where you with him right from 3--00P.M. to 10--00P.M. on that day?

Ans: ~~Yes~~. I do not know whether any persons have seen him on that day in your Office. He was in my clinic on 8--8--1986 from 3--00P.M. to 10--00P.M. and I was with him all the while.

Before confirming this point I would like to see your Inspector and then only I will be in a position to say whether he was the particular person or not.

At this juncture, Mr.M.V.Saibaba was directed to come to IAG's room and he was produced before the Doctor for identification purpose.

Q.3: Now could you please answer my second question as to whether you treated this same person on 8-8-1986 to whom you have given a certificate on 24--10--1986 for having administered three bottles of 5% Dextrose Saline and one ampule of Multi Bionte.

Ans: No. He is not the person who under my treatment on 8--8--1986 for whom I had issued a Medical Certificate. But I will be in a position to identify the correct person if he is produced before me. But the person whom you produced before me as M.V.Saibaba was not the patient for whom this certificate was issued.

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there is another aspect to be examined in this case i.e., the way of recording the statements of the witnesses and the recording of sworn statement of the Doctor by the ^{I.A.C.} ~~A.I.C.~~, The Income Tax Officer, "A" Ward Nellur himself acted as Disciplinary Authority and recorded the statements of the Employees in the Income-tax Office, Nellur to strengthen the case of the T.R.O., ^{behind the back of the Petitioner} against the applicant. Why the I.T.O., has recorded the statements of the witnesses and under what authority he has recorded the statements is not borne by record. This shows the interestedness of the officer to help the T.R.O., and to punish the Applicant.

Moreover the Inspecting Assistant Commissioner ^{of Income Tax} of Nellur sent word through one Mr. Sarma, Income-tax Inspector to Dr. Y. Subrahmanyam to Verify the income particulars of the Doctor and also asked him to come and give a statement before the Inspecting Assistant Commissioner. By the enquiries made by the Income-tax Authorities regarding the particulars of his income, he might have scared and made up his mind not to involve himself by giving evidence in favour of the applicant and thereby he slipped away by saying that the person shown to him before ~~the~~ Inspecting Assistant Commissioner and the Enquiry officer is not Sri Saibaba and he had treated ~~him~~ a different person. The I.A.C. of Income-tax recorded a sworn statement of the Doctor because the T.R.O., invented a story against the petitioner that he tried to assault him on 8-8-1986 at 5--55P.M., in the Income-tax Office premises and that the said story was proved false when the applicant stated in his written statement that he was under the treatment of the Doctor at Nellur on that particular day and at that particular time.

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Because of the plea of the applicant that he was under medical care on that particular day and time, the T.R.O., might have very much frightened and in order to save his skin he took the assistance of the I.T.O., "A" Ward and I.A.C., Income-tax, Nellur to help him in this matter. So the I.T.O., "A" Ward Nellur and I.A.C., Income-tax Nellur used all possible ways to disprove the Medical certificate. In pursuance of their object the I.T.O., "A" Ward and I.A.C., Income-tax voluntarily ~~xxx~~ recorded the statements of ~~the xxx~~ ~~xxx~~ by their subordinates and the sworn statement of the Doctor, by putting the Doctor under threat and fear.

While recording the statement of the Doctor, the I.A.C., threatened the Doctor that you are giving evidence on oath. It sound as if asking him to be careful. She also threatened the Doctor that about 20 Income-tax Officers who were present at the Incometax Office on 8--8--1986 at about 5-30P.M., saw the petitioner at the Income-tax Office at Nellur. It is not the evidence of the T.R.O. According to the T.R.O., one Venkateswarulu and Sreenivasulu present at the time of the alleged offence. He did not say that 20 Incometax official saw the petitioner at 5--30P.M. on 8-8-1986 in the premises of Incometax Office. How could I.A.C. came to know that 20 Incometax Officers saw the petitioner at the relavent time. It is a sheer invention made by the I.A.C., to threaten the Doctor and also to get the required evidence suited for the Depaytment. In order to support the Income Tax Officers the Doctor spoke a delibrate lie regarding the identity of the petitioner. Otherwise the T.R.O., cannot be saved and the petitioner cannot be punished. So the evidence of the Doctor is a tutored one obtained by threat and putting him in fear.

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The Doctor treated Saibaba the Income-tax Officer on 8--8--1986 from 3--00P.M. to 10-00P.M., in his Nursing home. He gave two bottles of Saline and one injection was also given. The Doctor knows that he is the Income-tax Inspector of Nellur Town. He came with an ailment for treatment under him. He treated him from 3--00P.M. to 10--00P.M., on 8--8--1986. How can some other person comes to him for treatment in the name of Sri Saibaba, Income-tax Inspector. If anybody want to impersonate Sri Saibaba, how could he get the ailment. If a person comes suffering from an ailment, why should he say that he is Sri Saibaba, Income-tax Inspector. There is no other Sai Baba who was working as Incometax Officer at Nellur. He was treated by Dr. Y.Subrahmanayam. He also gave certificate to that effect. The version given by the Doctor in his evidence regarding the identify is a deliberate ^{lie} ~~like~~ being afraid of the Income-tax people. It is an after thought at the instance of the Income-tax People to save the T.R.O., from his false complaint given to the Police and to the Income-tax Commissioner. There are malafides on the part of the T.R.O., and the other Incometax Officials at Nellur to see that the petitioner should be punished. In the circumstances, we hold that Charge No.3 is not proved. The Enquiry Officer himself held that Charge No.4 is not proved.

The learned counse for the Applicant Sri K.V.S. Bhaskar Rao argued that the punishment given to the applicant is too severe. The petitioner is a direct recruit Incometax Inspector. His rank was reduced ~~xxxxxxx~~ to the below rank of Income-tax ^{Inspector} ~~Officer~~. He contends that he should not be reverted to the Rank below to his original appointment. In

To

1. The Commissioner of income-tax, A.P. III, 7th Floor,
Aayakar Bhavan, Basheerbagh, Hyderabad-4
2. The Chief Commissioner of Income-tax, 8th Floor,
Aayakar Bhavan, Hyderabad.
3. One copy to Mr.K.v.S.Bhaskar Rao, Advocate
1-2-7-/4, Ground Floor, Banoo Colony, Hyderabad.
4. One copy to Mr.N.Bhaskara Rao, Addl.CGSC.CAT.Hyd.Bench.
5. One copy to Mr.J.Narasimha Murty, Member(J) CAT.Hyd.Bench.
6. One copy to Mr.R.Balasubramanian, Member(A) CAT.Hyd.Bench

Ans.
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support of his contention, he relied on a decision reported in HUSSAIN SASANSAHEB, KALADGI V. STATE OF MAHARASHTRA (A.I.R. 1987 S.C. 1627) wherein the Supreme Court held as under:

"A direct recruit to a post cannot be reverted to a lower post. It is only a promotee who can be reverted from the promotion post to the lower post from which he was promoted. The order of the State Government reverting the petitioner, a direct recruit to the post of Assistant Deputy Educational Inspector, to the lower post of primary teacher was unsustainable."

In this case the petitioner is a direct recruit as Incometax Inspector and he could not be reverted to a post below the rank of Incometax Inspector.


For the reasons stated above, we hold that the charges are not proved against the applicant. ~~and~~ Therefore, Order No. Confdl.No.96/86 dated 29-4-1988 by the 1st respondent and the Appellate Order No. Confdl.96/86 dated 30--9--1988 of the Chief Commissioner of Income-tax,

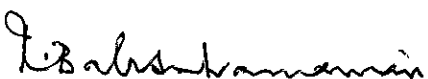
to be quashed and accordingly they are quashed. The respondents are directed to restore the Applicant to

his original position as Inspector of Incometax, ^{with in two months} from the date of Receipt of this order. ^h

In the result the Application is allowed.

No order as to costs.


(J. NARASIMHAMURTY)
Member (Judicial)


(R. BALASUBRAMANIAN)
Member (Administrative)

Date: 20.7.90

SSS.


DEPUTY REGISTRAR (JUDL)

- 7 The Dy.Registrar, Central Admn., Tribunal, Madras Bench, Tamilnadu Text Book Society Building, D.P.I. Compound, Nungambakkam, Madras-600005.
 - 8 The Dy.Registrar, Central Admn., Tribunal, Calcutta Bench, CGO Complex, 234/4-ADC Bose Road, Nizam Palace, Calcutta-700020.
 - 9 The Dy.Registrar, Central Admn. Tribunal, Bombay Bench, CGO Complex (CBO), 1st floor, New Bombay-400614.
 - 10 The Dy.Registrar, Central Admn. Tribunal, Chandigarh Bench, Set No. 102-103, Sector-34, Chandigarh.
 - 11 The Dy.Registrar, Central Admn., Tribunal, Allahabad Bench, 23-A, Thorn Hill, Road, Allahabad-211001.
 - 12 The Dy.Registrar, Central Admn. Tribunal, Guwahati Bench, Rajgarh Road, off. Shillong Road, Guwahati-781005.
 - 13 The Dy.Registrar, Central Admn. Tribunal, Bangalore Bench, Commercial complex (BDA), Indira Nagar, Bangalore-560030.
 - 14 The Dy.Registrar, Central Admn. Tribunal, Ernakulam Bench, Kandamukulathil Towers, 5th & 6th floors, Opp. Maharaja College, M.G. Road, Ernakulam, Cochin-682001.
 - 15 The Dy.Registrar, Central Admn. Tribunal, Jabalapur Bench, CARVS Complex, 15-Civil Lines, Jabalpur, M.P.
 - 16 The Dy.Registrar, Central Admn. Tribunal, Patna Bench, 32-A, B.M. Enterprises, Shri Krishna Nagar, Patna-1.
 - 17 The Dy.Registrar, Central Admn. Tribunal, Jodhpur Bench, C/o. Rajasthan High Court, Rajasthan (Jodhpur).
 - 18 The Dy.Registrar, Central Admn. Tribunal, Ahmadabad Bench, Navarang Pura, Near Sardar Patel Colony, Osmania, Ahmadabad.
 - 19 The Dy. Registrar, Central Admn. Tribunal, Cuttack Bench, Dolmandi, Cuttack-753001.
 - 20 The Dy.Registrar, Central Admn. Tribunal, Principal Bench, Faridkot House, Copernicus Marg, New Delhi-110001.
 - 21 Sri Sanjeev Malhotra, Managing Editor, All India Services Law Journal, 22, Tagore Park, New Model Town, New Delhi-9.
 - 22 The Editor, Kerala Law Times, High Court Road, Ernakulam, Cochin-602031.
 - 23 M/s. Eastern Book Company, 34, Lalbagh, Lucknow.
 - 24 M/s. Delhi Law Times, 5355, Jawaharnagar, Koliapur Road, Delhi-7.
 - 25 Sri Hasin Ahmad, Spl. Representative Reporter, A.I.R. Ltd, No. 21-1-1964 & 1965, Gandhi Bazar, Opp. High Court Bar Association, Hyderabad.
 - 26 The Administrative Tribunal Reporter, Bhagat Singh Market, 90, New Delhi-1110001.
 - 27 Sri KBS Sarma, General Secretary, All India Equal Rights Association, C-58, HUDA Residential Complex, Vanasthalipuram, Hyderabad.
 - 28 The Dy.Registrar (J), Central Admn. Tribunal, Hyderabad Bench, Hyderabad.
 - 29 One copy to Library, CAT, Hyderabad Bench, Hyderabad.
- 20M 30..... Spare copies.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. B.N. JAYASIMHA : V.C.

AND

THE HON'BLE MR. D. SURYA RAO : MEMBER (J)

AND

THE HON'BLE MR. J. NARASIMHA MURTY : M(J)

AND

THE HON'BLE MR. R. BALASUBRAMANIAN : M(A)

DATE: 20/7/90

ORDER/JUDGMENT: ✓

M.A./ R.A/C?A/No.

in

T.A. No.

W.P. No.

O.A. No.

117/89

Admitted and Interim directions issued
Allowed. ✓

Dismissed For Default.

Dismissed as withdrawn.

Dismissed.

Disposed of with direction.

M.A. Ordered/Rejected.

No order as to costs.

Central Administrative Tribunal
DESPATCH
27 JUL 1990
HYDERABAD BENCH.