

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.No.164/93

Date of Order: 25.3.97

BETWEEN:

B.Seshagiri Rao

.. Applicant.

AND

1. The Chief Commissioner of Income Tax, Andhra Pradesh, Ayakar Bhavan, Basheerbagh, Hyderabad.
2. The Secretary, Central Board of Direct Taxes, North Block, New Delhi.
3. K.V.Narayana
4. M.A.Hakeem
5. G.Sreeram
6. S.L.Narayana Ready
7. G.V.Subba Rao

.. Respondents.



Counsel for the Applicant

.. Mr.G.V.R.S.Vara Prasad

Counsel for the Respondents

.. Mr.N.V.Ramana

COFRAM:

HON'BLE SHRI K.RANGARAJAN : MEMBER (ADMN.)

HON'BLE SHRI B.S. JAI PARAMESHWAR : MEMBER (JUDL.)

JUDGEMENT

Oral order as per Hon'ble Shri R.Rengarajan, Member (Admn.)

సమాచారం

Heard Mr.G.V.R.S.Vara Prasad, learned counsel for the applicant and Mr.V.Rajeswara Rao, learned counsel for the respondents.

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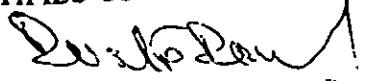
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5. The learned counsel for the applicant submitted that he may not be aware of the disposal of the SLP 7071/93. Hence he requested that R2 in this OA may be asked to send a copy of the direction in the SLP 7071/93 to him also by R-2 when received. This submission is join <sup>WC</sup> base. Hence bc also direct R-2 in this OA to send a copy of the order in SLP 7071/93 to the applicant as and when it is received.

6. The OA is disposed of as above. No costs.

सत्याग्रह प्रति  
CERTIFIED TO BE TRUE COPY

  
न्यायालय अधिकारी  
COURT OFFICER  
केन्द्रीय प्रशासनिक अधिकरण  
Central Administrative Tribunal  
हैदराबाद न्यायालय  
HYDERABAD BENCH

held thus the Principal Bench directed that the respondents shall be restrained from giving effect to the same from the said date. It is clear from a reading of the Principal Bench's order that no further promotions are to be made on the basis of the above mentioned rule that has since been struck down by the Principal Bench.

In these circumstances we find that the interim order passed by this Tribunal on 15.3.93 is in accordance with the observations and directions made by the Principal Bench in S.A. 843 of 1986. M.A.397/93 is dismissed for the afore-stated reasons.

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Sol/- x x x  
Deputy Registrar(J)

*Parveen* 17  
Court Officer 93  
Central Administrative Tribunal  
Hyderabad Bench  
Hyderabad

Copy to:-

1. The Chief Commissioner of Income-Tax, Andhra Pradesh, Ayakar Bhawan, Dasheerbagh, Hyderabad.
2. The Secretary, Central Board of Direct Taxes, North Block, New Delhi.
3. One copy to Sri. S.V.R.S. Varaprasad, advocate, 113/3RT, Vijayanagar colony, Hyderabad.
4. One copy to Sri. N.V.Ramana, Addl. CGSC, CAT, Hyd.
5. One copy to Sri. M.V.K.Viswanatham, advocate, CAT, Hyd.
6. One spare copy.

Rsm/-

MA 397/93

OA 164/93

9-6-93

21-6-93



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH HYDERABAD  
M.A.No.397 of 1993 in O.A.164 of 1993.

Between

Dated: 9-6-1993.

1. K.V.Narayana.  
M.A.Hakeem.  
G.Sreeram.  
S.L.Narayana Reddy.  
G.V.Subba Rao.

Applicants/Respondents

...  
And

1. The Chief Commissioner of Income Tax, Andhra Pradesh,  
Ayakar Bhawan, Basheerbagh, Hyderabad.  
2. The Secretary, Central Board of Direct Taxes, North Block,  
New Delhi.  
3. Sri. B.Seshagiri Rao. S/o Late Sri. B.S.V.L.Kanta Rao,  
Head clerk, Income Tax Department, Ayakar Bhawan, Hyd.

... Respondents/Applicant

Counsel for the Applicants :Sri. G.V.R.S.Vara Prasad  
Counsel for the Respondents :Sri. N.V.Ramana, Addl. CGSC.  
:Sri. M.V.K.Vishwanatham for (R-3)

CORAM:

Hon'ble Mr. A.B.Gorthi, Administrative Member  
Hon'ble Mr. T.Chandrasekhar Reddy, Judicial Member

The Tribunal made the following order:-

M.A.No.397/93 is from the private respondents in O.A.164/93. In O.A. 164/93 the applicant made a prayer for setting aside the departmental proceedings held in February, 1993. When the application came up for hearing initially interim relief was granted to the effect that any promotions made in pursuance of the relevant portion of the Income-tax Department(Inspector) Recruitment rules, 1969, which has been struck down by an order of the Principal Bench shall be subject to the outcome of the O.A. Later while admitting the O.A for adjudication an interim order was passed to the effect that the respondents shall be restrained from promoting to the post of Inspector from out of the list prepared by the DPC in February 1993. Learned counsel for the applicant Mr. G.V.R.S.Vara Prasad in O.A. 164/93 has drawn our attention to the judgement of the Principal Bench dt. 27.11.92 which has struck down column No.11 of Annexure P-2 of Incometax Department (Inspector) Recruitment Rules 1969 as amended by the Income Tax Department (Inspector) Recruitment Rules 1986 being violative of Articles of 14 and 16 of the Constitution. Having

APPLICATION FILED U/R 8(3) OF CENTRAL ADMINISTRATIVE

TRIBUNAL (P) RULES.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL:

HYDERABAD BENCH

AT HYDERABAD

M.A. No. of 1993

in

O.A.No. 164 of 1993

BETWEEN:

The Chief Commissioner of Incometax ... Applicant/Respondent  
Andhra Pradesh, Hyderabad

AND

Sri B.Seshagiri Rao ... Respondent/Applicant

Brief facts of the Case:

1. The Applicant in this O.A. filed the O.A. aggrieved by the action of the I respondent in preparing a select list after convening a Departmental Promotion Committee meeting for the purpose of promotion to the cadre of Incometax Inspectors in Andhra Pradesh. The applicant in the O.A., is seeking a direction from this Hon'ble Tribunal for declaration of Col.No.11 of the Incometax Department(Inspectors) Recruitment Rules, 1969 as amended by the Incometax Department Recruitment (Amendment) Rules, 1986 as void as offending Articles 14 and 16 of the Constitution of India and declare the Select List of candidates for appointment by promotion to the cadre of Inspectors of Incometax in Andhra Pradesh charge prepared by the Departmental Promotion Committee in February, 1993 as void. The O.A. was filed by the applicant after the Principal Bench of the Hon'ble Central Administrative Tribunal, New Delhi by their judgement dated 27-11-1992 declared Column No.11 of the Incometax Department Recruitment Rules, 1969, as amended by the Incometax Department Recruitment(Amendment) Rules, 1986, as void, as offending Articles 14 and 16 of the Constitution of India and the respondents therein were restrained from giving effect to the same from the date of the judgement. It was further held that it would be open to the Rule making Authority to replace the Rule which has been struck down by a valid Rule.

2. It is submitted that the O.A. was filed by the Applicant based on the said judgement. In this matter, a counter was also filed and some of the affected parties filed M.A. No. 397 of 1993. The Hon'ble Tribunal after admitting the O.A., granted the following Interim Order on 15-3-1993. :

"Until further orders, the respondents are restrained from promoting to the post of Inspectors of Incometax, from out of the list prepared by D.P.C. in February, 1993."

3. The vacation stay petition in M.A. No.397 of 1993 was dismissed on 9-6-1993.

4. The respondents filed M.A.No.572/93 praying for permission to fill up the posts of Inspectors of Incometax (Promotion Quota) on Ad-hoc basis and the same was allowed by this Hon'ble Tribunal by orders dated 29-7-1993.

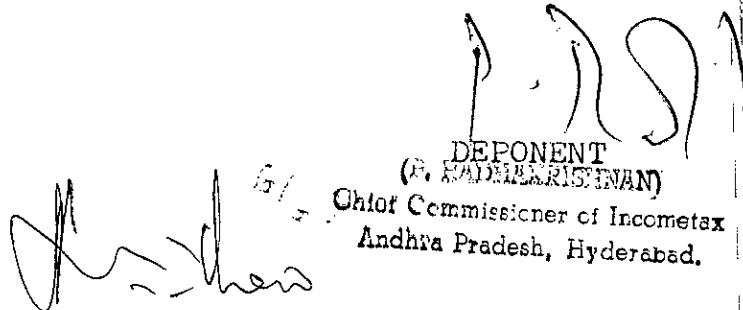
5. An SLP was preferred against the orders of the Principal Bench of the Hon'ble Tribunal in O.A.No. 846 of 1986 in the Hon'ble Supreme Court. The 2nd Respondent viz. the Secretary, Central Board of Direct Taxes, North Block, New Delhi has communicated to 1st Respondent vide telex dated 16-8-1993 that the Hon'ble Supreme Court has granted interim stay of the judgement and order dated 27-11-1992 of the Hon'ble Central Administrative Tribunal, Principal Bench, New Delhi, a copy of which is filed as Annexure-M.A.I. The promotions to the grade of Inspector and resultant vacancies would however be subject to the outcome of the final decision of the Hon'ble Supreme Court in SLP(C)No.6964 of 1993.

PRAYER:

It is therefore prayed that this Hon'ble Tribunal may be pleased to vacate its orders dated 15-3-93 by which the respondents <sup>were</sup> restrained from promoting to the post of Inspector of Incometax from out of the list prepared by DPC in February, 1993 until further orders and pass such other order or orders as the Hon'ble Tribunal may deem fit.

VERIFICATION

I, P.Radhakrishnan, S/o. Sri S.Ponnuswamy, Chief Commissioner of Incometax, Andhra Pradesh, Hyderabad, Respondent herein do hereby solemnly affirm and declare that the contents of the above M.A. are true and correct to the best of my knowledge and belief and information. Hence verified the same on this day of 25th August, 1993.

  
DEPONENT

(P. RADHAKRISHNAN)  
Chief Commissioner of Incometax  
Andhra Pradesh, Hyderabad.

ATTESTOR

K. V. L. NARAYAN RAO  
Dy. Commissioner of Incometax  
(H. Qrs.) (Admn.) & (Vig.)  
Hyderabad - 4.

In the C. A. T.  
Hyd Bench

MA 193  
in  
at 164/93

Vacate Stay Petition



filed by -  
N. V. Ramay  
addl. en