

CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH

OA No.317/03

Jabalpur, this the 26th day of October, 04.

CORAM

Hon'ble Mr.M.P.Singh, Vice Chairman
Hon'ble Mr.Madan Mohan, Judicial Member

J.L.Badole
Retd.Income Tax Officer
D-403, Mahavir Darshan
Cooperative Housing Society Ltd
Sector 2, Plot No.2
Kandiwali (west)
Mumbai.

Applicant

(By advocate Shri M.N.Banerjee)

Versus

1. Union of India through
the Secretary
Ministry of Finance
Government of India
North Block Secretariat
New Delhi.
2. Chairman
Central Board of Direct Taxes
North Block, New Delhi.
3. Chief Commissioner of Income Tax
Hoshangabad Road
Bhopal.
4. Commissioner of Income Tax
Napier Town, Jabalpur.

Respondents.

(By advocate Shri B.Dasilva)

ORDER

By Madan Mohan, Judicial Member

By filing this OA, the applicant has claimed the following reliefs:

- (i) To quash the suspension order dated 27.2.97
Annexure A1 being bad in law.
 - (ii) Direct the respondents to regulate the period
of suspension as period spent on duty, and to
give consequential benefits.
2. The brief facts of the case are that the applicant



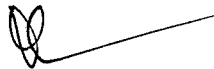
joined government service as Inspector of Income Tax on 11.5.73 and was promoted as Income Tax Officer on 14.12.82. while the applicant was working as Income Tax Officer, he was placed under suspension by Annexure A-1 order. Till date no charge sheet has been served upon the applicant nor any reasons for contemplation of disciplinary proceedings have been assigned in the suspension order. The applicant retired from service on 31.3.02 on attaining the age of superannuation. The respondents have not followed speedy follow up action as per the government instructions and no periodical review in the case of suspension of the applicant has been done by the respondents while it is regally required. As no reasons were assigned in the suspension order about contemplation of disciplinary proceedings nor charge sheet was issued to the applicant, the applicant requested the Commissioner of Income Tax, Jabalpur to review the case of applicant and revoke the suspension. By non-issuance of charge sheet for more than 7 years and also by not providing reasons for suspension, the applicant's opportunity of effectively exercising right of appeal has been denied. After retirement, the applicant requested for regulation of suspension period by application dated 19.8.02 (Annexure A4) but no action has been taken by the department.

3. Heard learned counsel for both parties. It is argued on behalf of the applicant that no charge sheet is issued to the applicant even after a lapse of 7 years and no reasons are assigned for the applicant's suspension and during the suspension period, the applicant retired on attaining the age of superannuation. In case of suspension,




the concerned authority should review the matter of suspension periodically. This procedure was not followed which was mandatory. An employee should not be unnecessarily put under suspension for a long period. It causes undue hardship to him. The applicant moved an application before the Commissioner of Income Tax and he also requested for revocation of the suspension but no action was taken by the authorities till date. As the applicant has retired from government service, there is no provision for conducting disciplinary proceedings. The applicant had moved an application for regulation of suspension period but no action has been taken by the respondents.

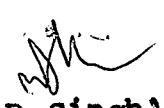
4. In reply, it is argued on behalf of the respondents that the SP, CBI, Jabalpur filed case in the court of Spl.Judge, Jabalpur for prosecuting the applicant for possession of disproportionate assets to known sources of income. In the meantime, the case of the applicant for revocation of suspension was reviewed from time to time. The applicant filed a petition before CAT, Jabalpur on 19.9.91 against the suspension order. The Tribunal vide order dated 23.10.92 in OA 624/91 directed the disciplinary authority to take steps for early finalisation of case against the applicant. The suspension order was revoked vide order dated 24.2.93. Thereafter, the Vth Additional Sessions Judge & Special Judge CBI, Jabalpur vide judgement in special case No.52/87 dated 5.10.96 in R.C.No.48 (A)/86 for possession of disproportionate assets to known sources of income, sentenced the applicant with 3 years rigorous imprisonment and fine of Rs.30000. He immediately deposited the fine. However, the applicant appealed before the High Court against the said judgement. The High Court admitted the



appeal and suspended the execution of jail sentence during the pendency of the appeal and granted bail. Hence the applicant is not entitled for any reliefs claimed.

5. After hearing the learned counsel for both parties and careful perusal of the records, we find that a criminal case was filed by the SP, CBI, Jabalpur against the applicant for possessing disproportionate assets to known sources of income. For that charge, he was sentenced by the competent court of Vth Additional Sessions Judge & Special Judge, CBI, Jabalpur vide judgement dated 5.10.96 and he was sentenced to 3 years' imprisonment and a fine of Rs.3000. He preferred an appeal before the Hon'ble High Court and the High Court admitted the appeal and suspended the sentence during the pendency of the appeal and granted bail. This is not yet decided. Hence it cannot be said that the applicant is exonerated from his conviction which is apparently serious in nature. The applicant had filed an OA earlier before CAT for revocation of the suspension order and the Tribunal had directed the disciplinary authority to take steps for early finalization of the case vide order dated 23.10.92 and the suspension order was revoked vide order dated 24.2.93 and the applicant was posted as TRO-II, Jabalpur. The applicant retired on 31.3.02 on attaining the age of superannuation. Hence his relief mentioned in para 10 (1) of the OA for quashing the suspension order has become infructuous. As far as a direction to the respondents to regulate the period of suspension as period spent on duty, it cannot be passed as the applicant is not yet exonerated from his conviction in the criminal case. Hence the OA has no merit and is dismissed. No order as to costs.


(Madan Mohan)
Judicial Member


(M.P. Singh)
Vice Chairman