

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH

CIRCUIT COURT SITTING AT INDORE

Original Application No. 752 of 2003

Original Application No. 175 of 2004

Indore, this the 30th day of September, 2004

Hon'ble Shri M.P. Singh, Vice Chairman
Hon'ble Shri A.S. Sanghvi, Judicial Member

1. Original Application No. 752 of 2003 -

Rahul Raman, S/o. Late Shri Umeshwar
Prasad, Aged about 35 years,
Deputy Commissioner, Income Tax,
(HQ/Admn.)-I, Indore-MP.

... Applicant

(By Advocate - Shri M.K. Verma)

V e r s u s

1. Union of India, through Ministry
of Finance, Secretary, Department
of Revenue, North Block, New Delhi.

2. The Chairman, Central Board of
Director Taxes, North Block,
New Delhi.

3. The Chief Commissioner of Income
Tax (CCA) Bhopal-MP.

4. Ms. Shefali Swaroop, through
Chairman, Central Board of Direct
Taxes, North Block, New Delhi.

5. Mr. M.S.V.M. Prasad, through
Chairman, Central Board of Direct
Taxes, North Block, New Delhi.

... Respondents

(By Advocate - Shri S. Akthar on behalf of Shri B.da.Silva)

2. Original Application No. 175 of 2004 -

Rahul Raman, S/o. late Shri Umeshwar
Prasad, aged about 35 years, Deputy
Commissioner, Income Tax, (HQ/Admn.)-1,
Indore-MP.

... Applicant

(By Advocate - Shri M.K. Verma)

V e r s u s

1. Union of India, through Ministry
of Finance, Secretary, Department of
Revenue, North Block, New Delhi.

2. The Chairman, Central Board of Direct
Taxes, North Block, New Delhi.

3. Central Vigilance Commission,
Satarkata Bhawan, GPO Complex,
INA, New Delhi.

4. Chief Commissioner of Income Tax
(CCA), Aaykar Bhawan, Hoshangabad

Road, Bhopal.

5. Director General of Income Tax
(Vigilance), Deen Dayal Upadhyay
Library Building, Deen Dayal Upadhyay
Marg, New Delhi.

6. Shri A.S. Thakur, the then Commissioner
Income Tax, Mumbai City-XIV, Mumbai,
Presently Chief Commissioner of Income
Tax, Aaykar Bhawan, Baily Road,
Patna, (Bihar).

... Respondents

(By Advocate - Shri S. Akthar on behalf of Shri B.da.Silva)

COMMON ORDER (Oral)

By A.S. Sanghvi, Judicial Member -

Both these OAs are inter-related and since they raise the common question of law, we have heard the learned counsel for both the parties and are disposing of both the OAs by this common order.

2. The applicant is a Deputy Commissioner in the Income Tax Department and his grievance is that his promotion to the post of Joint Commissioner of the Income Tax is withheld by the respondents~~as~~ only because of a minor penalty charge sheet given to him. He has filed OA No. 175/2004 challenging the minor penalty charge sheet given to him. It appears from the record that vide memo dated 20th November, 2003 he had been served with a charge sheet under Rule 16 of the CCS (CCA) Rules, 1965, ^{levelling} ~~referring~~ ~~ing~~ imputations of mis-conduct and mis-behaviour and directing the applicant to reply to the charge sheet within 20 days of the receipt of the same. It is also an undisputed position that the applicant has already replied to the charge sheet on 18.12.2002 and thereafter the enquiry has not proceeded at all. The applicant has already represented for completion of the enquiry but it appears that no actions have been taken by the respondents to consider his representation moved against the charge sheet and decide the enquiry by passing any final

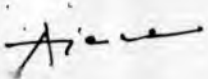
order concluding the enquiry proceedings. Obviously since the enquiry proceedings are initiated under Rule 16 of the CCS(CCA) Rules, the disciplinary authority is not required to hold a regular enquiry as provided under Rule 14 of the CCS(CCA) Rules and once the reply to the charge is received it is open to him to take appropriate decisions so far the charges levelled against the applicant is concerned. We are unable to appreciate the delay in taking the decision on the part of the disciplinary authority and find ourselves in agreement with the submissions made by the learned counsel for the applicant that this delay itself is sufficient to consider quashing of the charge sheet. However, since the charges levelled against the applicant are required to be duly considered and decided by the disciplinary authority in the light of the relevant provisions it would be ^{in appropriate} ~~appropriate~~ on our part to consider quashing of the charges levelled against the applicant at present. We would like to give one opportunity to the respondents to consider and decide the pending enquiry against the applicant and bring the enquiry to its logical end.

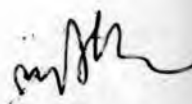
3. It also cannot be ~~re-~~gain said that because of the pendency of this enquiry the applicant has not been considered for further promotion. It is no doubt true ^{it is} that ~~the~~ basic requirement of the service jurisprudence that the pending enquiry should be concluded first and then the applicant be considered for promotion. Mr. Verma learned counsel for the applicant has submitted that the case of the applicant has already been considered and his case has been kept in the sealed cover by the DPC. This means that there is an urgency to decide the pending enquiry so that if he is exonerated of the charges level-

led against him, ~~so that~~ the sealed cover can be opened and the recommendations of the DPC can be put into effect.

4. In view of the above circumstances and in view of the facts and circumstances of these OAs, we are disposing of both these OAs with a direction to the respondents to finally decide the pending enquiry against the applicant initiated by giving a charge sheet under Rule 16 of the CCS(CCA) Rules to the applicant, on dated 20th November, 2003, within a period of two months from the date of receipt of copy of this order. We also warn that if the enquiry is not ~~dropped~~ ^{brought} to its logical end within two months from the date of receipt of copy of this order, we would be constrained to pass appropriate order of dropping of the charges against the applicant.

5. With this direction both the OAs stand disposed of with no order as to costs.


(A.S. Sanghvi)
Judicial Member


(M.P. Singh)
Vice Chairman

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Copy to:

(i) Shri M K Verma, Counsel for applicant
High Court - JBP.

(ii) Shri B' Dasilva Counsel for respondents.
High Court of MP JBP.

Received Copy.
R. K. Singh
1/10/04.