

Central Administrative Tribunal Principal Bench, New Delhi

O.A.No.963/2017

Tuesday, this the 25th day of April 2017

Hon'ble Mr. Justice Permod Kohli, Chairman
Hon'ble Mr. K.N. Shrivastava, Member (A)

Ajoy Kumar Singh, IRS (IT:87067)
Age 54 above years
s/o Rameshwar Prasad Singh
Posted at Income Tax Settlement Commission
Residing at Flat No.20, 9th Floor
16B Dovar Lane Kolkata – 29

..Applicant

(Mr. K.K. Rai, Senior Advocate and Mr. Satyendra Kumar, Advocate with him)

Versus

1. Union of India through Ministry of Finance
Department of Revenue, CBDT
Through its Member (P&V)
CBDT, North Block, New Delhi – 110 001
2. Director General of Income Tax (Vig.) & CVO
Central Board of Direct Taxes
1st Floor, Dayal Singh Public Library Building
1 Deen Dayal Upadhaya Marg
New Delhi – 110 002
3. The Secretary
Central Vigilance Commission
Satarkata Bhawan, Block A
INA, CGO Complex, New Delhi

..Respondents

(Mr. Gyanendra Singh, Advocate)

O R D E R (ORAL)

Justice Permod Kohli:

Notice.

2. Mr. Gyanendra Singh, learned standing counsel appears and accepts notice on behalf of the respondents.

3. The applicant is presently working as Commissioner of Income Tax and posted at Income Tax Settlement Commission, Kolkata. He applied for vigilance clearance for having a passport. The authorities have not granted vigilance clearance to enable the applicant to secure a passport. It is also mentioned that on the basis of a complaint, the CBI registered an FIR against the applicant and others under Sections 13 (1) (e) read with 13 (2) of Prevention of Corruption Act, 1988 and Section 109 of Indian Penal Code. The applicant was arrested on 25.10.2009 in connection with the aforesaid charge, though he has been admitted to bail and the matter is pending before the Hon'ble Supreme Court wherein some interim directions have been issued. The applicant has filed this O.A. seeking following reliefs:-

“(a) Call for the relevant records of the respondents;

(b) Quash the letter dated 05.02.2015 and 09.11.2015 issued by Respondent No.2 insisting on the grant of Vigilance clearance with status having the effect or denying issuance of international passport and upon quashing the same, direct the Respondent No.1 & 2 to issue Vigilance Clearance without any status attached to the same.

(c) Quash the approval for grant of prosecution sanction by Respondent No.3 being OM No.009/ITX/0648/64098 dated 24.11.2009, being vitiated and legal due to suppression of orders of stay granted by the Hon'ble Supreme Court dated 20.10.2009 and 03.11.2009.

(d) In the alternative, direct the Respondent No.3 to dispose off the representation of the applicant dated 07.01.2017, within a fixed time frame preferably within three weeks and till such decision is taken the OM No.009/ITX/068/64098 dated 24.11.2009 shall not be taken adversely against the applicant during the review of promotion of the applicant.”

4. Insofar as the relief at paragraph 8 (c) is concerned, that is not within the jurisdiction of this Tribunal. This fact is fairly conceded by learned senior counsel appearing for the applicant. However, the applicant is seeking the relief at paragraph 8 (d), i.e., in the alternative, he has sought a direction to respondent No.3 to dispose of his representation dated 07.01.2017. Keeping in view the fact that the decision has to be taken by the competent authority and this Tribunal cannot substitute its own opinion, it is deemed appropriate that respondent No.3 is directed to take decision on the representation of the applicant within the specified time.

5. Learned senior counsel appearing for the applicant submits that the applicant may be allowed to supplement his representation dated 07.01.2017 by giving further information/facts. The applicant is allowed to do so within four weeks.

6. Keeping in view the facts, noticed hereinabove, this O.A. is disposed of at the admission stage itself without insisting for the counter affidavit, with the following directions:

The applicant shall submit the supplementary representation to respondent No.3 within four weeks from today. Respondent No.3 shall take decision on the representation of the applicant dated 07.01.2017 and supplementary representation within a period of two months from the date of receipt of supplementary representation, by passing a reasoned and speaking order. Needless to say that all relevant factors, including the fact that applicant being a Government servant is required to obtain 'No Objection Certificate' from the employer, i.e., the Government for securing

a passport, as prescribed under the Passport Manual 2010/Rules/Regulations made thereunder, will also be dealt with by respondent No.3 while passing the order. No costs.

(K.N. Shrivastava)
Member (A)

(Justice Permod Kohli)
Chairman

April 25, 2017
/sunil/