

**Central Administrative Tribunal
Principal Bench**

OA No.3125/2017

New Delhi, this the 25th day of October, 2018

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Pradeep Kumar, Member (A)**

Ajoy Kumar Singh, IRS (IT:87067),
S/o Ramehwar Prasad Singh,
Posted at Income Tax Settlement Commission,
10 C, Middleton Row, Kolkata,
Residing at Flat No.20, 9th Floor,
16B Dovar Lane Kolkata-29.

...Applicant

(In person)

Versus

1. Union of India,
Ministry of Finance,
Department of Revenue,
North Block, New Delhi-110001
(Through: The Secretary)
2. Ministry of Personnel, PG & Pensions,
Department of Personnel & Training,
North Block, New Delhi-110001
(Through : The Secretary)
3. The Chairman,
Central Board of Direct Taxes,
Department of Revenue,
Ministry of Finance, North Block,
New Delhi-110001.
4. Ms. M.V. Bhanumathi, (Civil Code: 87068),
(Respondent No.4 to the served through Respondent
No.3)

...Respondents

(By Advocate : Shri R.K. Jain)

ORDER (ORAL)**Justice L. Narasimha Reddy, Chairman :-**

The applicant is an officer of Indian Revenue Service of 1987 batch. At present, he is holding the post of Commissioner of Income Tax, Settlement Commission, Kolkata and is functioning as departmental representative in Kolkata Bench of the Income Tax Appellate Tribunal.

2. A DPC, for promotion to the post of Principal Commissioner of Income Tax was held on 07.06.2017. The case of the applicant was also considered by the DPC but the result in his case was put in a sealed cover. The reason was that a charge-sheet was issued, and prosecution under the Prevention of Corruption Act was also initiated against him. The applicant contends that the proposed disciplinary action against him was stayed by the Hon'ble Supreme Court, and a criminal case was registered against him in the Special Court of CBI at Bombay, under the provisions of Prevention of Corruption (PoC) Act, 1988, on the ground that he possessed assets disproportionate to his known source of income, he has initiated proceedings for quashing the same on the ground that they were initiated without obtaining prior sanction. He contends that the DPC

ought not to have adopted the sealed cover procedure in his case.

3. Respondents filed counter affidavit opposing the OA. They submit that the sealed cover procedure had to be adopted in the case of the applicant since a criminal case is pending as regards which he was also suspended and unless the criminal case, which is now pending terminates, the occasion to open sealed cover does not arise.

4. The applicant argued the case in person and we heard Shri R.K. Jain, learned counsel for respondents.

5. This is not a case where the applicant was not considered at all, for promotion. The DPC did consider his case but kept the result thereof in a sealed cover. That became necessary on account of pendency of the criminal case against the applicant before the Special Court. It may be true that the applicant has challenged the initiation of the criminal case on the ground that the prior sanction, as required under Section 19 of the PoC Act,1988 has not been obtained.

6. However, that is a question to be decided by the concerned Court. As long as proceedings are pending, the

respondents have no option but to adopt sealed cover procedure and it is only on termination thereof, that the cover can be opened.

7. Though reliance is placed on the judgment of ***Andhra Pradesh Vs. N. Radhakishnan***, stating that there was a long delay in initiation of proceedings, this is not a stage or forum to decide the question. It is only when the criminal case or the DE proceedings are challenged by raising these grounds that the occasion may arise to apply the principle laid down therein, on thorough examination of facts and law.

8. We do not find any case to direct the respondents to open the sealed cover or to promote the applicant as the things stands now. We, therefore, dispose of the OA by directing that the respondents shall take necessary steps depending on the outcome of the proceedings that are pending against the applicant.

There shall be no order as to costs.

(Pradeep Kumar)
Member (A)

(L. Narasimha Reddy)
Chairman

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