

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE

REVIEW APPLICATION NO. 170/00003/2017
IN
OA. NO. 170/00963/2016

DATED THIS THE 19TH DAY OF JANUARY, 2018

HON'BLE DR K.B. SURESH, MEMBER(J)

HON'BLE SHRI P.K. PRADHAN, MEMBER(A)

T.C. Gupta,
S/o Shri Gyan Chand,
Aged about 62 years,
R/o S-77, Golden Enclave,
Old Airport Road,
Bangalore– 560 017.
Retired Joint Commissioner of Income Tax,
Bangalore.

... Applicant

(Party in person)

Vs.

1. Union of India,
Through the Secretary,
Ministry of Finance,
Department of Revenue,
Government of India,
New Delhi-110 001.

2.The Pr. Chief Commissioner of Income Tax,
Karnataka & Goa,
Bangalore-560 001.

3.The Pr. Chief Commissioner of Income Tax,
Rajasthan,
Jaipur-302005.

4.Inquiry Officer and Joint Commissioner of Income Tax,
Central Range,
Jaipur-302005.

...Respondents.

(By Shri M.V. Rao, Sr. Panel Counsel)

O R D E R (ORAL)HON'BLE DR K.B. SURESH, MEMBER(J)

Heard. The applicant seeks to close the stable after the horse has bolted. This matter relates to departmental enquiry which has long back been completed and punishment imposed. The case of the applicant was that the applicant had chosen one particular defence assistant. But this particular defence assistant was not willing to be his defence assistant. Therefore, his case is that the controlling office of the defence assistant must be compelled to compel the defence assistant to be applicant's defence assistant.

2. Even in the case of lawyers, wherein the conditions are more stringent, such imposition cannot be made against them itself. Applicant would say that the lawyers are private persons, whereas the defence assistant is a Government servant. Therefore under Rules and on particular CVC direction, there can be compulsion by the Disciplinary Authority to a particular defence assistant of the choice of the applicant or the delinquent employee. Therefore, we questioned him to provide the said order. He is unable to provide it today. Assuming that CVC has issued such a direction, even then, contrary to constitutional principles, nobody can be compelled to act against their will. There is no compulsion on the Government servant to be a defence assistant to the delinquent employee.

3. In this case, the applicant is agitating a matter which long since been disposed of and the disciplinary enquiry is over and punishment imposed on the applicant. Therefore, this is a tangential way to reopen the disciplinary enquiry, which has been completed and punishment imposed. Such things are

not available under law. We feel this is a frivolous and vexatious litigation imposed on the respondents by the applicant.

4. At this point of time, Shri T.C. Gupta clarified the position that there are actually two enquiries. Only one enquiry has been completed and the other enquiry is still on. Still the same position retains. Nobody can be compelled to be his defence assistant, against his will.

5. In fact under Section 14, there is a specific illustration that there cannot be any compulsion in personal service under specific relief set. That being so, Review Application will not lie. It is a frivolous and vexatious methodology of approaching the adjudicator.

6. RA therefore found to be merit-less, but is frivolous and vexatious. Dismissed, but we refrain ourselves from imposing any cost, even though it is due.

(P.K. PRADHAN)
MEMBER(A)

(DR K.B. SURESH)
MEMBER(J)

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Annexures referred to by the applicant in RA.No.3/2017

Annexure RA-1: Copy of the order dated 3.11.2016.

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