

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
JABALPUR

Original Application No.200/01053/2018

Jabalpur, this Friday, the 02nd day of November, 2018

HON'BLE MR. RAMESH SINGH THAKUR, JUDICIAL MEMBER

I.B. Khandel, S/o late B.L. Khandel, D.O.B – 15.9.1966, R/o
H.No. B/66, Lily Villa, Sukh Sagar Valley, Narmada Road,
Jabalpur M.P. – 482008 **-Applicant**

(By Advocate – Shri S.K. Nandy)

V e r s u s

1. Union of India, Ministry of Finance through its Secretary,
Department of Revenue, Central Board of Direct Tax, North
Block, New Delhi 110001.

2. The Under Secretary (V&L) – I, Government of India,
Ministry of Finance, Central Board of Direct Tax, North Block,
New Delhi – 110001.

3. The Chairman, Ministry of Finance, Department of Revenue,
Central Board of Direct Tax, North Block, New Delhi 110001.

4. DG Vigilance, Government of India, Second Floor,
Jawaharlal Nehru Stadium, New Delhi 110003 **-Respondents**

**(By Advocate – Shri Abdul Rehman, proxy counsel of Shri
Sanjay Lal)**

ORDER (O R A L)

This Original Application has been filed by the applicant
against the impugned charge memorandum dated 08.06.2018.

2. Brief facts of the case are that the applicant was initially
appointed on the post of Inspector w.e.f. 20.01.1989 and

thereafter was promoted as Income Tax Officer on 20.12.1994. He was further promoted as Assistant Commissioner of Income Tax on 29.06.2007; Deputy Commissioner of Income Tax on 23.07.2012 and Joint Commissioner of Income Tax on 01.04.2016 on ad-hoc basis. Vide Annexure A-1, the respondent department has issued a charge memorandum under Rule 14 of the CCS (CCA) Rules, 1965 pertaining to the incidence of 19.03.2010 regarding the recording of statement of Shri Narendra Jain, Partner of M/s. Manibhadra Builders and Developers. As per Annexure A-1, there are five Articles of charges but incident is the same. The applicant had replied to the charge memo as per Annexure A-2 on 21.06.2018. However, till date neither Inquiry Officer has been appointed nor the representation has been taken into account. The applicant has raised the legal question regarding the issuance of charge memo as the incident is of 2010, whereas the charge memo has been issued in 2018, i.e. after an inordinate delay of eight years. Secondly, till date the respondents have failed to consider the reply filed by him as per Annexure A-2.

3. The applicant had relied upon the Office Memorandum of Central Vigilance Commission dated 18.04.2018

(Annexure A-5) and also the guidelines issued by the Central Vigilance Commission vide Annexure A/6 Circular No.02/01/2016 dated 18.01.2016 regarding timely completion of disciplinary proceedings/department inquiry proceedings. The Annexure appended with the circular dated 18.01.2016 reads as under:

“Model Time Limit for Department Inquiries as laid down in Circular No. 8(1)(g)99(3) dated 03.03.1999

State of Departmental Inquiry	Time Limit Prescribed
<ul style="list-style-type: none"> Fixing date of Preliminary Hearing and Inspection of listed documents, submission of Defence documents/witnesses and nomination of a Defence Assistant (DA) (if not already nominated) 	Within four weeks
<ul style="list-style-type: none"> Inspection of relied upon documents/submission of list of DWs/ Defence documents/ Examination of relevancy of Defence documents/DWs, procuring of additional documents and submission of certificates confirming inspection of additional documents by CO/DA Issue of summons to the witnesses, fixing the date of Regular Hearing and arrangement for participation of witnesses in the Regular Hearing Regular Hearing on Day to Day basis 	3 months
<ul style="list-style-type: none"> Submission of Written Brief by PO to CO/IO 	15 days
<ul style="list-style-type: none"> Submission of Written Brief by CO to IO 	15 days
<ul style="list-style-type: none"> Submission of Inquiry Report from the date of receipt of written Brief by PO/CO 	30 days

NB: If the above schedule is not consistent/in conflict with the existing rules/regulations of any organisation, the outer time limit of six months for completing the Departmental Inquiries should be strictly adhered to.”

4. It has been submitted by the applicant that now, vide Office Order No.181 of 2018 dated 25.10.2018 (Annexure A-4), the respondents have extended the ad-hoc appointment of IRS officers to the grade of Joint Commissioner of Income Tax from 01.04.2018 to 31.03.2019 or upto the date of their regular appointment, whichever is earlier. But, name of the applicant has not been included in the said order. The applicant apprehends that since till date no steps for completing the inquiry has been taken as per Annexure A-6 guidelines, the interest of the applicant may be prejudiced as the regular DPC is to be held in near future. Furthermore, the fallout of Annexure A-1 has been clearly indicated by issuing Annexure A-4 order dated 21.10.2018, whereby the name of the applicant does not figure for extension of ad-hoc appointment to the grade of Joint Commissioner of Income Tax. It has been further submitted that till date the applicant has not been reverted back and is holding the post of Joint Commissioner of Income Tax at Jabalpur.

5. Learned counsel for the applicant has relied upon the judgment of Hon'ble Apex Court in the case of **State of A.P. vs. N. Radhakishan**, (1998) 4 SCC 154 and **State of Madhya Pradesh vs. Bani Singh & Anr.**, 1990 (suppl) SCC 738 and

submitted that impugned charge memo suffers from inordinate, unexplained and improper delay and the same cannot be sustained in the eyes of law.

6. I have gone through the averments made by learned counsel for the applicant and also perused the pleadings available on record.

7. From perusal of Annexure A-6 circular dated 18.01.2016, it is clear that outer time limit of six months for completing the departmental inquiry has to be strictly adhered to. But in the instant case, the incident pertains to the year of 2010 and chargesheet has been issued on 08.06.2018 (Annexure A-1), Despite the representation filed by the applicant dated 21.06.2018 (Annexure A-2), the respondents have neither taken further steps regarding the appointment of Inquiry Officer nor the representation has been decided till date, which is in violation of the instructions/circular referred above.

8. In view of the above, I am of the view that this Original Application can be disposed of at the admission stage by issuing following directions to the respondents:

“(i) The respondents to adhere to the Circular No.02/01/2016 dated 18.01.2016 regarding completion of department inquiry in a prescribed time limit.

(ii) They shall maintain the status-quo regarding the posting of the applicant as Joint Commissioner (ad-hoc) till finalization of the departmental inquiry in furtherance of Annexure A-1 dated 08.06.2018.

(iii) The applicant shall be considered for regular promotion to the post of Joint Commissioner in pursuance to Annexure A-4 Office Order dated 25.10.2018 alongwith others. However, his name may be kept in sealed cover till finalisation of the disciplinary proceedings.”

9. With the above directions, the O.A stands disposed of.

No costs.

(Ramesh Singh Thakur)
Judicial Member

am/-